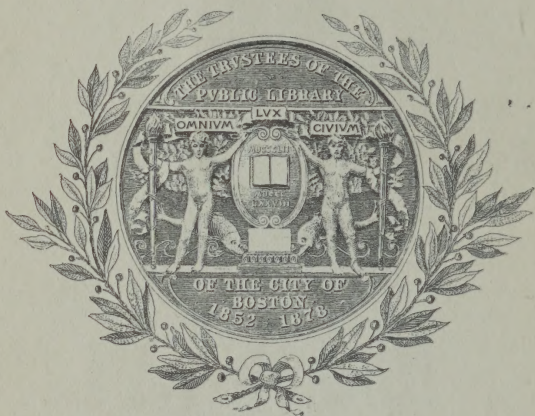


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THE
C H A R T E R
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Of the City of Boston,

TOGETHER WITH THE
ACTS OF THE LEGISLATURE
RELATING TO THE CITY.

*6351.81

COLLATED AND REVISED,
PURSUANT TO AN ORDER OF THE CITY COUNCIL,

BY
THOMAS WETMORE AND EDWARD G. PRESCOTT.
COMMISSIONERS.

OF THE
CITY OF BOSTON

B O S T O N :
J. H. EASTBURN, CITY PRINTER.

1834.

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CITY OF BOSTON.

Nov. 3. 1886

IN THE BOARD OF ALDERMEN, FEBRUARY 4, 1833.

Ordered, That two Commissioners be appointed, from the City Council, to revise the City Ordinances, and to cause a new edition of the Charter of the City of Boston, and of such revised Ordinances, together with all the Ordinances made and established by the Mayor, Aldermen, and Common Council, with such Acts of the Legislature of Massachusetts as relate to the government of said City, to be printed, with proper marginal notes, and an index; for the use of the City Council.

Sent down for concurrence.

CHARLES WELLS, MAYOR.

IN COMMON COUNCIL, FEBRUARY 14, 1833.

Read and concurred.

JOHN P. BIGELOW, PRESIDENT.

In pursuance of the above Order, THOMAS WETMORE and EDWARD G. PRESCOTT, Esquires, were duly elected, by ballot, by the two branches of the City Council.

ATTEST:

S. F. MCLEARY, CITY CLERK.

RECEIVED
CITY OF BOSTON
FEB 14 1833

TO THE CITY COUNCIL.

The Commissioners appointed by the foregoing order feel it incumbent upon them to state the reasons of their delay in the publication of this revised edition of the CITY ORDINANCES. At the time of entering upon their duty, it was thought that nothing more would be necessary than to republish the former volume, with such additional Ordinances as had been passed, and such amendments as had already been adopted, or were suggested by the necessity of an increasing population. But it was soon ascertained that it would not be safe to rely upon the volume heretofore in use.

The consequence has been, that the Commissioners have been obliged to search for every Ordinance in the original books of record, and for the several Acts, in the volumes of State Laws.

The Ordinances contained in this volume, have been revised, and, with but few exceptions, altered with much care and submitted to the City Council. The discussions, which necessarily took place before their passage, have also furnished another cause of delay.

In presenting this volume to the City Council, the Commissioners believe that they offer an edition in which full confidence may be placed; and that the copious index, which amounts almost to a digest, together with the list of contents prefixed to each Act and Ordinance, will much facilitate the labors of those who are obliged frequently to refer to it.

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ERRATA.

In page 58, line 9th of the Index, *twenty* should be *seventy*.

“ “ 118, “ 4th “ “ “ the references should be —
(38,) (39,) (42.)

“ “ 128, “ 15th “ “ “ the reference should be (64.)

ORDINANCES, LAWS, &c.

OF THE
CITY OF BOSTON.

City Charter.

[1] *Corporate name, general powers and officers of government.*

[2] *Wards, division of the City into.*

[3] *Ward officers, their election and duties.*

[4] *Warden, his powers to preserve order at meetings.*

[5] *Mayor, time of and proceedings at his election, (altered—See post 34, & see 39, 40.)*

[6] *Aldermen, time and manner of their election, (altered—See post, 34.)*

[7] *Common Council, time and mode of their election, (altered—See post, 34.)*

[8] *Electors, their qualifications.*

[9] *City Council, time of commencement of its duties, (altered—See post, 35.) Oaths of office.*

[10] *Mayor and Aldermen to act as one body, to choose Clerk,—his duties and powers prescribed.*

[11] *Common Council to choose a President and Clerk, their powers and duties—Meetings of City Council to be public—quorum of Common Council established.*

[12] *Mayor, his salary, powers and duty.*

[13] *Mayor and Aldermen, powers of Selectmen transferred to—may grant licenses to inn-holders, &c.*

[14] *Theatres, &c. to be licensed by Mayor and Aldermen.*

[15] *City Council—general powers of the Town of Boston transferred to—to make by-laws—to assess and collect taxes—appropriate and disburse money—and to choose assessors.*

[16] *Officers of the City and Register of Deeds to be appointed by the City Council, and the Public buildings and property confided to its care.*

[17] *Board of Health, its powers transferred to the City Council.*

[18] *City Treasurer, his election.*

[19] *Firewards, Overseers of the Poor, and School Committee, their election, (altered—See post, 34.)*

[20] *Accountability of Officers—annual financial statements.*

[21] *Nominations to office to be made by the Mayor—Mem-*

bers of the City Council ineligible to salary offices.

[22] *Representatives to General Court, the number to be fixed by the City Council, in Convention, (altered—See post, 43,) members of the City Council ineligible to any other office under the City Government.*

[23] *State Officers and Representatives to Congress, time and mode of the election of—record and return to be made by the Mayor and Aldermen. Inhabitants to determine whether the election shall be in general meeting. See 32.*

[24] *Ward lists to be made by the Mayor and Aldermen, no person to vote whose name is not on the list,—duty of Inspectors.*

[25] *General meetings, when to be called.*

[26] *Warrants for meetings, mode of issuing and return of.*

[27] *First meeting of the City Government, time of and proceedings at.*

[28] *Repeal of acts relating to the Board of Health and Taxes.*

[29] *March meeting suspended.*

[30] *Charter made subject to Legislative control.*

[31] *Charter must be accepted by inhabitants.*

[32] *Record of the acceptance of the Charter.*

[33] *Board of Aldermen, vacancies in how to be filled.*

[34] *City Council, time of its election altered from April to December.*

[35] *City Council, its duties to commence on the first Monday of January.*

[36] *Additional act to be first accepted by the Inhabitants.*

[37] *Repealing clause.*

[38] *Record of the acceptance of the additional act.*

[39] *Mayor, proceedings in case of his non election.*

[40] *Mayor, proceedings in case of his non acceptance or absence.*

[41] *Additional act to be accepted.*

[42] *Record of the acceptance.*

[43] *Convention for fixing number of Representatives altered from May to October.*

AN ACT ESTABLISHING THE CITY OF BOSTON,

[FEB. 23, 1822.]

[1] **SECT. 1.** *Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, That the inhabitants of the town of Boston, for all purposes, for which towns are by law incorporated in this Commonwealth, shall continue to be one body politic, in fact and in name, under the style and denomination of the City of Boston, and as such, shall have, exercise, and enjoy, all the rights, immunities, powers, and privileges, and shall be subject to all the duties and obligations, now incumbent upon, and appertaining to said town, as a municipal corporation. And the administration of all the fiscal, prudential, and municipal concerns of said city, with the conduct and government thereof, shall be vested in one principal officer, to be styled the Mayor, one select council, consisting of eight persons, to be denominat-*

ed the Board of Aldermen, and one more numerous council to consist of forty-eight persons to be denominated the Common Council; which boards, in their joint capacity, shall be denominated the City Council, together with such other board of officers, as are herein after specified.

[2] SECT. 2. *Be it further enacted*, That it shall be the duty of the Selectmen of Boston, as soon as may be, after the passing of this act, to cause a new division of the said town to be made into twelve wards, in such manner as to include an equal number of inhabitants in each ward, as nearly as conveniently may be, consistently with well defined limits to each ward; including, in such computation of numbers of inhabitants, persons of all descriptions, and taking the last census, made under the authority of the United States, as a basis for such computation. And it shall be in the power of the City Council, herein after mentioned, from time to time, not oftener than once in ten years, to alter such divisions of wards, in such a manner as to preserve, as nearly as may be, an equal number of inhabitants in each ward.

[3] SECT. 3. *Be it further enacted*, That on the second Monday of '*April*,' [*altered to December—See post, 34,*] annually, the citizens of said city, qualified to vote in city affairs, shall meet together within their respective wards, at such time and place, as the Mayor and Aldermen, may by their warrant, direct and appoint; and the said citizens shall then choose by ballot one Warden and one Clerk, who shall be resident in said ward, who shall hold their offices for one year, and until others shall be appointed in their stead. And it shall be the duty of such Warden to preside at all meetings of the citizens of such ward, to preserve order therein; and it shall be the duty of such Clerk to make a fair and true record, and keep an exact journal of all the acts and votes of the citizens, at such ward meetings; to deliver over such records and journals, together with all other documents and papers held by him, in his said capacity, to his successor in such office. And if, at the opening of any annual meeting, the Warden of such ward should not be present, the Clerk of such ward shall call the citizens to order, and preside at such meeting until a Warden shall be chosen by ballot. And if, at any other meeting, the Warden shall be absent, the Clerk, in such case, shall so preside, until a Moderator or Warden *pro tempore*, shall be chosen; which may be done by nomination and hand vote, if the Clerk so direct. At such meeting also, five inspectors of elections shall be chosen for such ward, being residents therein, by ballot, to hold their offices for one year. And it shall be the duty of the Warden

and Inspectors, in each ward, to receive, sort, count and declare all votes, at all elections within such ward. And the Warden, Clerk, and Inspectors, so chosen, shall respectively be under oath, faithfully and impartially to discharge their several duties, relative to all elections ; which oath may be administered, by the Clerk of such ward, to the Warden, and by the latter to the Clerk and Inspectors, or by any Justice of the Peace of the county of Suffolk ; and a certificate of such oath's having been administered shall be entered in the record or journal, to be kept by the Clerk of such ward.

[4] SECT. 4. *Be it further enacted*, That the Warden, or other presiding officer of such ward meeting, shall have full power and authority to preserve order and decorum therein, and to repress all riotous, tumultuous, and disorderly conduct therein, and for that purpose to call to his aid, any constable, or other peace officer, and also to command the aid and assistance of any citizen or citizens, who may be present ; and any peace officer, or other citizen, neglecting or refusing to afford such aid, shall be taken and deemed to be guilty of a misdemeanor. And such Warden shall also have power and authority, by warrant, under his hand, to cause any person or persons who shall be guilty of any riotous, tumultuous, or disorderly conduct at such meeting, to be taken into custody, and restrained : *Provided, however*, That such restraint shall not continue after the adjournment or dissolution of such meeting : *And Provided, further*, That the person, so guilty of such disorderly conduct, shall be liable, notwithstanding such restraint, to be prosecuted and punished, in the same manner, as if such arrest had not been made.

[5] SECT. 5. *Be it further enacted*, That the citizens of said city, qualified to vote in city affairs, at their respective ward meetings, to be held on the second Monday in 'April' [*altered to December—See post, 34,*] annually, shall be called upon to give in their votes for one able and discreet person, being an inhabitant of the city, to be the Mayor of said city, for the term of one year. And all the votes so given in, in each ward, being sorted, counted, and declared by the Warden and Inspectors of elections shall be recorded at large, by the Clerk, in open ward meeting : and in making such declaration and record, the whole number of votes or ballots, given in, shall be distinctly stated, together with the name of every person voted for, and the number of votes given for each person respectively ; such numbers to be expressed in words at length ; and a transcript of such record certified and authenticated by the Warden, Clerk, and a majority of the Inspectors of elections for each ward, shall forthwith be transmitted or delivered by such ward Clerk, to the Clerk of the city. And it shall be

the duty of the City Clerk, forthwith to enter such returns, or a plain and intelligible abstract of them, as they are successively received, upon the journal of the proceedings of the Mayor and Aldermen, or some other book to be kept for that purpose. And it shall be the duty of the Mayor and Aldermen to meet together, within two days after such election, and to examine and compare all the said returns, and to ascertain whether any person has a majority of all the votes given for Mayor; and in case a majority is so given, it shall be their duty to give notice thereof, in writing, to the person thus elected, and also to make the same known to the inhabitants of said city. But if, on such an examination no person appears to have a majority of all the votes given for Mayor, the Mayor and Aldermen for the time being, shall issue their warrants for meetings of the respective wards, for the choice of a Mayor, at such time and place, as they shall judge most convenient; And the same proceedings shall be had in all respects, as are herein before directed, until a Mayor shall be chosen by a majority of all the voters, voting at such elections. And in case of the decease, inability, or absence of the Mayor, and the same being declared and a vote passed by the Aldermen and Common Council, respectively, declaring such cause, and the expediency of electing a Mayor, for the time being, to supply the vacancy thus occasioned, it shall be lawful for the Aldermen and Common Council to meet in convention, and elect a Mayor to hold the said office until such occasion shall be removed, or until a new election. [See *post*, 39, 40.]

[6] SECT. 6. *Be it further enacted*, That the citizens in their respective ward meetings, to be held on the second Monday of '*April*' [*altered to* December—See *post*, 34,] annually, shall be called upon to give in their votes for eight persons, being inhabitants of said city, to constitute the Board of Aldermen, for the ensuing year; and all the votes so given, being sorted, counted, and declared by the Warden and Inspectors shall be recorded at large, by the Clerk, in open ward meeting; and in making such declaration and record, the whole number of votes or ballots given in shall be particularly stated, together with the name of every person voted for, and the number of votes given for each person; and a transcript of such record, certified by the Warden and Clerk, and a majority of the Inspectors of each ward, shall, by the said Clerk, within two days, be transmitted to the City Clerk; whereupon the same proceedings shall be had, to ascertain and determine the persons chosen as Aldermen, as are herein before directed in regard to the choice of Mayor, and for a new election, in case of the whole number required not being chosen at the first elec-

tion. And each Alderman, so chosen, shall be duly notified in writing of his election by the Mayor and Aldermen for the time being. [See post, § 33.]

[7] SECT. 7. *Be it further enacted*, That the citizens of each ward, qualified to vote as aforesaid, at their respective ward meetings, to be held on the second Monday of '*April*,' [altered to December—See post, 34,] annually, shall be called upon to give in their votes for four able and discreet men, being inhabitants of said ward, to be members of the Common Council; and all the votes given in as aforesaid, in each ward, and being sorted, counted, and declared by the Warden and inspectors, if it appear that four persons have a majority of all the votes given at such election, a public declaration thereof, with the names of the persons so chosen, shall be made in open ward meeting, and the same shall be entered at large, by the clerk of such ward, in his journal, stating particularly the whole number of votes given in, the number necessary to make a choice, and the number actually given for each of the persons, so declared to be chosen. But, in case four persons are not chosen at the first ballot, a new ballot shall be opened for a number of Common Council-men, sufficient to complete the number of four; and the same proceedings shall be had, as before directed, until the number of four shall be duly chosen; *Provided, however*, That if the said elections cannot conveniently be completed on such day, the same may be adjourned to another day, for that purpose, not longer distant than three days. And each of the persons so chosen as a member of the Common Council, in each ward, shall, within two days of his election, be furnished with a certificate thereof, signed by the Warden, Clerk, and a majority of the Inspectors of such ward; which certificate shall be presumptive evidence of the title of such person to a seat in the Common Council; but such Council, however, shall have authority to decide ultimately upon all questions relative to the qualifications, elections, and returns of its members.

[8] SECT. 8. *Be it further enacted*, That every male citizen of twenty-one years of age and upwards, excepting paupers, and persons under guardianship, who shall have resided within the Commonwealth one year, and within the city six months next preceding any meeting of citizens, either in wards, or in general meeting, for municipal purposes, and who shall have paid by himself or his parent, master, or guardian, any state or county tax, which, within two years next preceding such meeting, shall have been assessed upon him, in any town or district in this Commonwealth, and also every citizen who shall be, by law, exempted from taxation, and who shall be in all other

respects qualified as above mentioned, shall have a right to vote at such meeting, and no other person shall be entitled to vote at such meeting.

[9] SECT. 9. *Be it further enacted*, That the Mayor, Aldermen, and Common Council-men, chosen as aforesaid, shall enter on the duties of their respective offices on the first *day of 'May'* in each year, unless the same happen on a Sunday; and in that event on the day following; [*altered to 1st Monday in January—See post, 35,*] and before entering on the duties of their offices, shall respectively be sworn, by taking the oath of allegiance and oath of office, prescribed in the constitution of this Commonwealth, and an oath to support the constitution of the United States. And such oaths may be administered to the Mayor elect, by any one of the Justices of the Supreme Judicial Court, or any Judge of any Court of Record, commissioned to hold any such court, within the said city, or by any Justice of the Peace for the county of Suffolk. And such oaths shall and may be administered to the Aldermen and members of the Common Council, by the Mayor being himself first sworn as aforesaid; and a certificate of such oaths having been taken, shall be entered in the journal of the Mayor and Aldermen, and of the Common Council, respectively, by their respective Clerks.

[10] SECT. 10. *Be it further enacted*, That the Mayor and Aldermen, thus chosen and qualified, shall compose one board, and shall sit and act together as one body, at all meetings, of which the Mayor, if present, shall preside; but in his absence, the board may elect a Chairman, for the time being. The said board, together with the Common Council, in convention, shall have power to choose a Clerk, who shall be sworn to the faithful discharge of the duties of his office, who shall be chosen for the term of one year, and until another person is duly chosen to succeed him; removable, however, at the pleasure of the Mayor and Aldermen; who shall be denominated the Clerk of the City, and whose duty it shall be to keep a journal of the acts and proceedings of the said board, composed of the Mayor and Aldermen; to sign all warrants issued by them, and to do such other acts in his said capacity, as may, lawfully and reasonably, be required of him; and to deliver over all journals, books, papers, and documents, entrusted to him as such Clerk, to his successor in office, immediately upon such successor being chosen and qualified as aforesaid, or whenever he may be thereto required by the said Mayor and Aldermen. And the City Clerk thus chosen and qualified, shall have all the powers, and perform all the duties, now by law belonging to the Town Clerk of the Town of Boston, as if the same were particularly and fully enu-

merated, except in cases where it is otherwise expressly provided.

[11] SECT. 11. *Be it further enacted*, That the persons so chosen and qualified, as members of the Common Council of the said city, shall sit and act together as a separate body, distinct from that of the Mayor and Aldermen, except in those cases in which the two bodies are to meet in convention ; and the said Council shall have power, from time to time, to choose one of their own members to preside over their deliberations, and to preserve order therein, and also to choose a Clerk, who shall be under oath faithfully to discharge the duties of his office, who shall hold such office, during the pleasure of said Council, and whose duty it shall be to attend said Council, when the same is in session, to keep a journal of its acts, votes, and proceedings, and to perform such other services, in said capacity, as said Council may require. All sittings of the Common Council shall be public ; also all sittings of the Mayor and Aldermen, when they are not engaged in executive business. Twenty-five members of the Common Council shall constitute a quorum for the transaction of business.

[12.] SECT. 12. *Be it further enacted*, That the Mayor of the said City, thus chosen and qualified, shall be taken and deemed to be the chief executive officer of said corporation ; and he shall be compensated for his services by a salary, to be fixed by the Board of Aldermen and Common Council, in City Council convened, payable at stated periods ; which salary shall not exceed the sum of five thousand dollars annually, and he shall receive no other compensation or emoluments whatever ; and no regulations enlarging or diminishing such compensation shall be made, to take effect until the expiration of the year, for which the Mayor then in office, shall have been elected. And it shall be the duty of the Mayor to be vigilant and active at all times, in causing the laws for the government of said city to be duly executed and put in force ; to inspect the conduct of all subordinate officers in the government thereof, and as far as in his power, to cause all negligence, carelessness, and positive violation of duty, to be duly prosecuted and punished. He shall have power, whenever, in his judgment, the good of said city may require it, to summon meetings of the Board of Aldermen and Common Council, or either of them, although the meeting of said boards or either of them may, stand adjourned to a more distant day. And it shall be the duty of the Mayor, from time to time, to communicate to both branches of the City Council all such information, and recommend all such measures as may tend to the improvement of the finances, the police,

health, security, cleanliness, comfort, and ornament of the said city.

[13] SECT. 13. *Be it further enacted, That the administration of police, together with the executive powers of the said corporation generally, together also with all the powers heretofore vested in the Selectmen of the town of Boston, either by the general laws of this Commonwealth, by particular laws relative to the powers and duties of said Selectmen, or by the usages, votes or by-laws of said town, shall be and hereby are vested in the Mayor and Aldermen, as hereby constituted, as fully and amply as if the same were herein specially enumerated. [“ And further, the said Mayor and Aldermen shall have full and exclusive power to grant licenses to innholders, victuallers, retailers, and confectioners, within the said city, in all cases wherein the Court of Sessions for the county of Suffolk, on the recommendation of the Selectmen of Boston, have heretofore been authorized to grant such licenses ; and in granting such licenses, it shall be lawful for the said Mayor and Aldermen to annex thereto such reasonable conditions in regard to time, places, and other circumstances, under which such license shall be acted upon, as in their judgment, the peace, quiet, and good order of the city may require. Also to take bonds of all persons so licensed, in reasonable sums, and with sufficient sureties, conditioned for a faithful compliance with the terms of their said licenses, and of all laws and regulations respecting such licensed houses : And said Mayor and Aldermen, after the granting of any such license, shall have power to revoke or suspend the same, if in their judgment the order and welfare of said city shall require it. And any person or persons who shall presume to exercise either of the said employments, within said city, without having first obtained a license therefor, or in any manner, contrary to the terms of said license, or after the same shall have been revoked or suspended, such person or persons shall be liable to the same penalties and forfeitures, and to be prosecuted for, in the same manner as now by law provided, in case of exercising either of said employments without license from the Court of Sessions, for the county of Suffolk ; and shall also be taken and deemed to have forfeited their bonds, respectively given aforesaid, upon which suits may be instituted against such licensed persons or their sureties, at the discretion of the said Mayor and Aldermen, and in such manner as they may direct, for the purpose of enforcing such forfeiture : Provided, however, That all innholders, retailers, confectioners, and victuallers, shall, on being licensed as aforesaid, pay the same sum now required by law ; which sum shall be accounted for in the same*

way and manner as is now by law required.] [Repealed by act of March 24, 1832.]

[14] SECT. 14. *Be it further enacted*, That the Mayor and Aldermen shall have power to license all theatrical exhibitions, and all public shows, and all exhibitions of whatever name or nature, to which admission is obtained on payment of money, on such terms and conditions as to them may seem just and reasonable ; and to regulate the same, from time to time, in such manner as to them may appear necessary to preserve order and decorum, and to prevent the interruption of peace and quiet. And any person or persons who shall set forth, establish, or promote any such exhibition or show, or publish, or advertise the same, or otherwise aid or assist therein, without a license so obtained as aforesaid, or contrary to the terms or conditions of such license, or whilst the same is suspended, or after the same is revoked by said Mayor and Aldermen, shall be liable to such forfeiture, as the City Council may, by any by-law made for that purpose, prescribe.

[15] SECT. 15. *Be it further enacted*, That all other powers now by law vested in the town of Boston, or in the inhabitants thereof, as a municipal corporation, shall be, and hereby are vested in the Mayor and Aldermen, and Common Council of the said city to be exercised by concurrent vote, each board, as hereby constituted, having a negative upon the other. More especially they shall have power to make all such needful and salutary by-laws, as towns by the laws of this Commonwealth have power to make and establish, and to annex penalties, not exceeding twenty dollars, for the breach thereof, which by-laws shall take effect and be in force from and after the time therein respectively limited, without the sanction or confirmation of any court, or other authority whatsoever ; *Provided*, That such by-laws shall not be repugnant to the constitution and laws of this Commonwealth : *And provided also*, That the same shall be liable to be annulled by the Legislature thereof. The said City Council shall also have power, from time to time, to lay and assess taxes for all purposes, for which towns are by law required or authorized to assess and grant money, and also for all purposes, for which county taxes may be levied and assessed, whenever the city shall alone compose one county : *Provided, however*, That in the assessment and apportionment of all such taxes upon the polls and estates of all persons liable to contribute thereto, the same rules and regulations shall be observed as are now established by the laws of this Commonwealth, or may be hereafter enacted, relative to the assessment and apportionment of town taxes. The said City Council shall also have

power to provide for the assessment and collection of such taxes, and to make appropriations of all public moneys, and provide for the disbursement thereof, and take suitable measures to ensure a just and prompt account thereof; and for these purposes, may either elect such assessors, and assistant assessors, as may be needful, or provide for the appointment or election of the same, or any of them, by the Mayor and Aldermen, or by the citizens, as in their judgment may be most conducive to the public good, and may also require of all persons entrusted with the collection, custody, or disbursement of public moneys, such bonds with such conditions and such sureties, as the case may in their judgments require.

[16] SECT. 16. *Be it further enacted*, That the said City Council shall have power, and they are hereby authorized to provide for the appointment or election of all necessary officers, for the good government of said city, not otherwise provided for; to prescribe their duties, and fix their compensation, and to choose a Register of Deeds, whenever the city shall compose one county. The City Council also shall have the care and superintendence of the public buildings, and the care, custody, and management of all the property of the city, with power to lease or sell the same, (except the Common and Faneuil Hall,) with power also to purchase property, real or personal, in the name, and for the use of the city, whenever its interest or convenience may in their judgment, require it.

[17] SECT. 17. *Be it further enacted*, That all the power and authority now by law vested in the Board of Health for the town of Boston, relative to the quarantine of vessels, and relative to every other subject whatsoever, shall be, and the same is hereby transferred to, and vested in the said City Council, to be carried into execution by the appointment of Health Commissioners, or in such other manner as the health, cleanliness, comfort, and order of the city may, in their judgment, require, subject to such alterations as the Legislature may from time to time adopt.

[18] SECT. 18. *Be it further enacted*, That the Mayor and Aldermen of said city, and the said Common Council shall as soon as conveniently may be, after their annual organization, meet together in convention, and elect some suitable and trustworthy person to be the Treasurer of said city.

[19] SECT. 19. *Be it further enacted*, That the citizens at their respective ward meetings, to be held on the second Monday of 'April,' [*altered to December, see post 34,*] annually, shall elect by ballot, [*"a number of persons to be determined by the City Council, but not less than three in each ward, to be*

Firewards of said city, who together shall constitute the board of Firewards of said city, and shall have all the powers, and be subject to all the duties, now by law appertaining to the Firewards of the town of Boston, until the same shall be altered or qualified by the Legislature.”] [Power to choose firewards transferred to the Mayor and Aldermen, Act June 18, 1825.]

And the said citizens shall, at the same time and in like manner, elect one person in each ward, to be an Overseer of the Poor; and the persons thus chosen shall together constitute the Board of Overseers for said city, and shall have all the powers and be subject to all the duties, now by law appertaining to the Overseers of the Poor for the town of Boston, until the same shall be altered or qualified by the Legislature. And the said citizens shall, at the same time, and in like manner, elect one person in each ward, to be a member of the School Committee for the said city; and the person so chosen shall, jointly with the Mayor and Aldermen, constitute the School Committee for said city, and have the care and superintendence of the public schools.

[20] SECT. 20. *Be it further enacted*, That all boards, and officers, acting under the authority of the said corporation, and entrusted with the expenditure of public money, shall be accountable therefor to the City Council in such manner as they may direct. And it shall be the duty of the City Council to publish and distribute, annually, for the information of the citizens, a particular statement of the receipts and expenditures of all public moneys, and a particular statement of all city property.

[21] SECT. 21. *Be it further enacted*, That in all cases in which appointments to office are directed to be made by the Mayor and Aldermen, the Mayor shall have the exclusive power of nomination; such nomination, however, being subject to be confirmed or rejected by the Board of Aldermen: *Provided, however*, That no person shall be eligible to any office, the salary of which is payable out of the city treasury, who at the time of his appointment, shall be a member either of the Board of Aldermen or Common Council.

[22] SECT. 22. *Be it further enacted*, That it shall be the duty of the two branches of the City Council, in the month of ‘May,’ [altered to October, see post 43,] in each year, after their annual organization, to meet in convention, and determine the number of Representatives, which it may be expedient for the corporation to send to the General Court in such year, within its constitutional limits, and to publish such determination, which shall be conclusive; and the number thus determined shall be specified in the warrant calling a meeting for

the election of representatives ; and neither the Mayor, nor any Alderman, or members of the Common Council, shall, at the same time, hold any other office under the city government.

[23] SECT. 23. *Be it further enacted,* That all elections for Governor, Lieutenant Governor, Senators, Representatives, Representatives to Congress, and all other officers, who are to be chosen and voted for by the people, shall be held at meetings of the citizens qualified to vote in such elections, in their respective wards, at the time fixed by law for those elections respectively. And at such meetings, all the votes given in, being collected, sorted, counted, and declared by the inspectors of elections, in each ward, it shall be the duty of the Clerk of such ward to make a true record of the same, specifying therein the whole number of ballots given in, the name of each person voted for, and the number of votes for each, expressed in words at length. And a transcript of such record, certified by the Warden, Clerk, and a majority of the Inspectors of elections in such ward, shall forthwith be transmitted or delivered by each ward clerk to the clerk of the City. And it shall be the duty of the City Clerk forthwith to enter such returns, or a plain and intelligible abstract of them, as they are successively received in the journals of the proceedings of the Mayor and Aldermen, or in some other book kept for that purpose. And it shall be the duty of the Mayor and Aldermen to meet together within two days after every such election, and examine and compare all the said returns, and thereupon to make out a certificate of the result of such election, to be signed by the Mayor and a majority of the Aldermen, and also by the City Clerk, which shall be transmitted, delivered, or returned, in the same manner as similar returns are by law directed to be made by the Selectmen of towns ; and such certificates and returns shall have the same force and effect in all respects, as like returns of similar elections made by the Selectmen of towns. And in all elections for representatives to the General Court, in case the whole number proposed to be elected shall not be chosen by a majority of the votes legally returned, the Mayor and Aldermen shall forthwith issue their warrant for a new election, and the same proceedings shall be had in all respects as are herein before directed, until the whole number shall be elected : *Provided, however,* That it shall be the duty of the Selectmen of the said town of Boston, within twelve days from the passing of this Act, to call a meeting of the qualified voters of the said town to give in their ballots on the following question :—Shall the elections for State and United States officers be holden in general meeting ? And it shall be

the duty of the Selectmen to preside at the said meeting to receive, sort, count, and declare the votes given in, and to forward a certificate of the result to the Secretary of the Commonwealth, and publish the same in two or more of the newspapers printed in Boston; and if a majority of the votes so given in shall be in the negative, then the provisions of the preceding part of this section shall regulate the said elections in wards; but if a majority of the votes given in as aforesaid shall be in the affirmative, then the said elections for State and United States officers shall be holden in the manner prescribed by the constitution and laws of the Commonwealth, with the exception that the Mayor and Aldermen and City Clerk shall perform the duties now required by law to be performed by the Selectmen and Town Clerk. *See (32.)*

[24] SECT. 24. *Be it further enacted,* That prior to every election of City officers, or of any officer or officers under the government of the United States or of this Commonwealth, it shall be the duty of said Mayor and Aldermen to make out lists of all the citizens of each ward, qualified to vote in such election, in the manner in which Selectmen and Assessors of towns are required to make out similar lists of voters, and for that purpose they shall have free access to the Assessors' books and lists, and be entitled to the aid and assistance of all Assessors, Assistant Assessors, and other officers of said city. And it shall be the duty of said Mayor and Aldermen to deliver such list of voters in each ward, so prepared and corrected, to the Clerk of said ward, to be used by the Warden and Inspectors thereof at such election; and no person shall be entitled to vote at such election, whose name is not borne on such list. And to prevent all frauds and mistakes in such elections, it shall be the duty of the Inspectors, in each ward, to take care that no person shall vote at such election, whose name is not so borne on the list of voters, and to cause a mark to be placed against the name of each voter on such list, at the time of giving in his vote.

[25] SECT. 25. *Be it further enacted,* That general meetings of the citizens, qualified to vote in city affairs, may from time to time be held, to consult upon the common good, to give instructions to their representatives, and to take all lawful measures to obtain a redress of any grievances, according to the right secured to the people by the constitution of this Commonwealth. And such meetings shall and may be duly warned by the Mayor and Aldermen, upon the requisition of fifty qualified voters of said city.

[26] SECT. 26. *Be it further enacted,* That all warrants for the meetings of the citizens, for municipal purposes to be

had either in general meetings or in wards, shall be issued by the Mayor and Aldermen, and shall be in such form, and shall be served, executed, and returned at such time, and in such manner, as the City Council may, by any by-law, direct and appoint.

[27] SECT. 27. *Be it further enacted*, That for the purpose of organizing the system of government hereby established, and putting the same into operation in the first instance, the Selectmen of the town of Boston, for the time being, shall seasonably, before the second Monday of April next, issue their warrants for calling meetings of the said citizens in their respective wards, qualified to vote as aforesaid, at such place and hour as they shall think expedient, for the purpose of choosing a Warden, Clerk, and five Inspectors of Elections, and also to give in their votes for a Mayor and eight Aldermen, for said city, and four Common Councilmen, three Firewards, one Overseer of the Poor, and one member of the School Committee, for each ward; and the transcripts of the records of each ward, specifying the votes giving for Mayor and Aldermen, Firewards, Overseers, and members of the School Committee, certified by the Warden, Clerk, and a majority of the Inspectors, of such ward, shall at said first election, be returned to said Selectmen of the town of Boston, whose duty it shall be to examine and compare the same. And in case said elections shall not be complete at the first election, then to issue a new warrant, until such election shall be completed, and to give notice thereof, in the manner herein before directed, to the several persons elected. And at said first meeting, the Clerk of each ward, under the present organization, shall call the citizens to order, and preside until a Warden shall be chosen, and at said first meeting, a list of voters in each ward, prepared and corrected by the Selectmen of the town of Boston, for the time being, shall be delivered to the Clerk of each ward, to be used as herein before directed.

[28] SECT. 28. *Be it further enacted*, That so much of the act heretofore passed, relative to the establishment of a Board of Health for the town of Boston, as provides for the choice of members of the said Board, and so much of the several acts relative to the assessment and collection of taxes within the town of Boston, as provides for the election of Assistant Assessors, also all such acts, and parts of acts, as come within the purview of this act, and which are inconsistent with, or repugnant to the provisions of this act, shall be, and the same are hereby repealed.

[29] SECT. 29. And whereas by the laws of this Commonwealth, towns are authorized and required to hold their annual meetings some time in the months of March or April, in each

year, for the choice of town officers ; and whereas such meeting, in the month of March, in the present year, for the town of Boston, would be useless, and unnecessarily burthensome : Therefore,

Be it further enacted, That the annual town meetings, in the months of March or April, be suspended, and all town officers now in office shall hold their places until this act shall go into operation.

[30] SECT. 30. *Be it further enacted*, That nothing in this act contained shall be so construed as to restrain or prevent the Legislature from amending or altering the same, whenever they shall deem it expedient.

[31] SECT. 31. *Be it further enacted*, That this act shall be void, unless the inhabitants of the town of Boston, at a legal town meeting, called for that purpose, shall by a written vote, determine to adopt the same within twelve days.

[32] At a legal meeting of the freeholders and other inhabitants of the town of Boston, holden at Faneuil Hall, on Monday the 4th day of March, A. D. 1822.

This meeting was called in conformity to the 23d and 21st sections of an act, entitled "An act to establish the City of Boston," passed on the 23d day of February, 1822.

The Selectmen presiding, the Chairman submitted the following questions to the qualified voters of the town, and requested them to write *yes*, or *no*, against each question.

1st Question. Will you accept the Charter granted by the Legislature, entitled "An act to establish the City of Boston ?"

2d Question. Shall the elections for State and United States officers be holden in general meeting ?

Voted, That the Poll be closed at 3 o'clock.

At the close of the Poll it appeared that the whole number of ballots given in on the first question was

4,678

namely, Yeas, 2,797

Nays, 1,881 ————— 4,678

Majority, 916 for accepting the Charter.

The whole number of votes given in on the second question, was

4,700

namely, Yeas, 1,887

Nays, 2,813 ————— 4,700

Majority 926 against electing State and United States officers in general meeting.

The state of the votes was declared by the Chairman of the Selectmen, and then the meeting was dissolved.

ATTEST, THO'S CLARK, *Town Clerk.*

A true Copy from the Record.

ATTEST, S. F. MC'LEARY, *City Clerk.*

Extract from "An Act, providing for filling vacancies in the Board of Aldermen, &c." [*Passed June 12, 1824.*]

[33 SEC. 6. *Be it further enacted*, That in case of the death or resignation of any member of the Board of Aldermen, the citizens of Boston shall have power to fill such vacancy at any regular meeting that may thereafter be convened for that purpose.

An Act, in further addition to an Act, entitled "An Act establishing the City of Boston." [*Passed Jan. 27, 1825.*]

[34] SECT. 1. *Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same*, That the election of the Mayor, Aldermen, and Common Council-men, and such other officers of the City of Boston, as are now by law to be chosen on the second Monday in April annually, shall in future be made on the second Monday in December, annually, and the said officers so chosen shall hold their respective offices for the same term of time, and the same proceedings shall be had in relation to such elections as is provided in and by the Act, entitled, "An Act establishing the City of Boston," to which this is in addition: *Provided, nevertheless*, That the next choice of the said city officers shall be made at such time, and in such manner, as are prescribed in and by the Act aforesaid, and the officers so elected shall severally hold their offices until the first Monday of January next, any thing in this act to the contrary notwithstanding.

[35] SECT. 2. *Be it further enacted*, That the officers chosen under and by virtue of this Act, shall enter on the duties

of their respective offices on the first Monday of January in each year, and shall be liable to all the duties and restrictions, and shall exercise all the powers to which the said officers are respectively subject or entitled, under and by virtue of the Act to which this is in addition, and of all other Acts having relation to this subject matter.

[36] SECT. 3. *Be it further enacted*, That this Act shall be void, unless the inhabitants of the City of Boston, at any general meeting duly warned by public notice, of at least fourteen days, by the Mayor and Aldermen, shall, within sixty days from the passing hereof, by written vote adopt the same.

[37] SECT. 4. *Be it further enacted*, That all the provisions of the Act to which this is in addition, or of any other Act inconsistent with the provisions of this Act, shall be, and hereby are repealed.

[38] At a general meeting of the inhabitants of the City of Boston, held at Faneuil Hall, on the 25th day of February, Anno Domini, 1825.

The meeting was called for the purpose of giving in the written votes upon the adoption of the Act of the Legislature, entitled "An Act in further addition to an Act entitled an Act establishing the city of Boston."

Voted, That the poll be closed at one o'clock, P. M.

At the close of the Poll it appeared that the whole number of ballots given in was 102

namely, Yeas, 100 —

Nays, 2—102

So the same was decided in the affirmative.

A true Copy from Record,

Attest, S. F. M'CLEARY, *City Clerk*.

An Act providing in certain cases for the Election of Mayor of the City of Boston. [*Passed June 5, 1830.*]

[39] SECT. 1. *Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same*, That whenever, on examination by the Mayor and Aldermen of the City of Boston, of the returns of

votes given for Mayor at the meetings of the wards holden for the purpose of electing that officer, last preceding the first Monday of January, in each year, no person shall appear to have a majority of all the votes given for Mayor, the Mayor and Aldermen, by whom such examination is made, shall make a record of that act, an attested copy of which it shall be the duty of the City Clerk to produce and read, on the first Monday of January, in the presence of the Members returned to serve as Aldermen and Common Councilmen ; and thereupon the oaths prescribed by law may be administered to the members elect, by any one of the Justices of the Supreme Judicial Court, or any Judge of any Court of Record holden in said city, or by any Justice of the Peace for the county of Suffolk ; and thereupon the members of the Board of Aldermen shall proceed to elect a chairman, and the Common Council a president, in their respective chambers, and being respectively organized, shall proceed to business in the same manner as is provided in the tenth section of the city charter in case of the absence of the Mayor :—And the Board of Aldermen shall forthwith issue their warrants for meetings of the Citizens of the respective wards, for the choice of a Mayor, at such time and place as they shall judge most convenient ; and the same proceedings shall be had, in all respects, as are directed in and by the provisions of the fifth section of the city charter, and repeated from time to time, until a Mayor shall be chosen, by a majority of all the voters voting at such elections.

[40] SECT. 2. *Be it further enacted*, That in case any person elected Mayor of said City shall refuse to accept the office, the same proceedings shall be had in all respects, as are herein before directed in cases wherein there has been no choice of Mayor, until a Mayor be chosen by a majority of votes.—And in case of the unavoidable absence by sickness or otherwise, of the Mayor elect, on the first Monday in January, the City Government shall organize itself in the mode herein before provided, and may proceed to business in the same manner as if the Mayor were present.

[41] SECT. 3. *Be it further enacted*, That this act shall be void, unless the inhabitants of said City of Boston, at a legal city meeting, called for that purpose, shall by a written vote, determine to adopt the same, within twelve days from the time of the passing of this act.

[42] At a general meeting of the inhabitants of the City of Boston, qualified as the law directs, held at Faneuil Hall, on Wednesday, the sixteenth day of June, Anno Domini, 1830.

The meeting was called for the purpose of receiving the written votes yea or nay, for or against the act of the Legislature, passed on the fifth day of June instant, entitled "An Act providing in certain cases for the election of Mayor of the City of Boston."

The act above mentioned was read by the Moderator.

Voted, That the poll be closed at half past 12 o'clock.

At the close of the poll, the votes being sorted and counted, it appeared that the whole number was 73

namely, 68 yeas,

5 nays,

73

The same was declared in the affirmative, and the act adopted unanimously.

A true Copy. Attest, S. F. M'CLEARY, *City Clerk*.

An Act in further addition to an Act, entitled "An Act establishing the City of Boston." [*Passed June 17, 1831.*]

[43] *Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, That the time for the City Council of the City of Boston to meet in convention, in order to determine the number of Representatives which it may be expedient for said City to send to the General Court, shall be in the month of October instead of May, in each year, any thing in the act to which this is in addition, to the contrary notwithstanding.*

CHAPTER II.

*Accounts and Accountability in Expenditures.—
Auditor.*

ORDINANCE OF THE CITY.

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| [1] Committee of Accounts, how appointed. | examining and casting bills, &c. |
| [2] Auditor of Accounts, his appointment. | [6] Auditor, his duty as to receiving and paying over to the Treasurer money due the City, from city officers,—Their duty to pay the same—accounts to be kept between Treasurer and Auditor—Auditor's duty as to financial statements. |
| [3] City Treasurer, when to pay money on account of the City—when to pay in advance on contracts, &c. | [7] City Treasurer, when to make up his accounts—Commencement of the financial year. |
| [4] Committee of Accounts, their duty as to the manner of keeping the Auditor's books, &c. and as to passing bills. | [8] Repealing clause. |
| [5] Auditor, his duty as to keeping books, receiving, | |

An ordinance establishing a system of accountability in the Expenditures of the City. [*Passed Dec. 22, 1825.*]

[1] SEC. 1. *Be it ordained by the Mayor, Aldermen and Common Council of the City of Boston, in City Council assembled,* That from and after the end of the present Municipal year, there shall be appointed in the month of January annually by ballot in each board of the City Council, a joint Committee of Accounts, to consist of two on the part of the board of Aldermen, and three on the part of the Common Council, whose duty it shall be to meet once a month, and as much oftener as they may deem expedient.

[2] SEC. 2. *Be it further ordained,* That from and after the end of the present municipal year, there shall be appointed, in the month of May annually, by concurrent ballot in each board, one able and discreet person, to be styled, Auditor of Accounts; who shall continue in office until removed, or a successor be appointed; who shall receive such compensation for his service as the City Council shall authorize and establish, and who shall be removable at all times, at the pleasure of the City Council; who shall be sworn to the faithful discharge of the duties of his office, and give bond with surety or sureties, to be approved by the Mayor and Aldermen, in the penal sum of

five thousand dollars, for the faithful discharge of said duties, the true accounting for and payment over, of all moneys which shall come into his hands, and the delivery over to his successor or Mayor and Aldermen of all the books, accounts, papers and other documents and property, which shall belong to said office ; and in case said office should become vacant by death, resignation or otherwise, a successor shall forthwith, and in like manner be appointed, who shall continue in office until the appointment of a successor.

[3] SEC. 3. *Be it further ordained*, That no moneys shall be paid out of the City Treasury (except in the cases hereinafter provided) unless the expenditure, or the terms of the contract, shall be vouched by the chairman of the committee of the board under whose authority it has been authorized or made ; nor unless the same shall be examined by the Auditor, be approved by the Committee of Accounts, and be drawn for by the Mayor. And it shall be the duty of the Mayor, to compare such expenditures with the general appropriations made for the various objects, and require the Auditor to make an exhibit of the state of such appropriations, monthly, to the City Council : *Provided*, that in all cases where it is necessary for money to be paid in advance, for contracts made or for work begun, but not completed, the Mayor may upon being satisfied of such necessity, draw upon the City Treasurer, for the amount thus necessary to be advanced ; which draft shall be paid by the City Treasurer, provided the same be countersigned by the Auditor ; and it shall be the duty of the Auditor to countersign all such drafts, not exceeding three hundred dollars, and to charge the same to the proper person and account ; but the said Auditor shall not countersign any such draft for any sum exceeding three hundred dollars, without the direction of the Committee of Accounts.

[4] SEC. 4. *Be it further ordained*, That it shall be the duty of the Committee of Accounts to direct the Auditor, as to the manner in which the books, records and papers belonging to his department shall be kept, and the mode in which all bills and accounts against the City, shall be certified or vouched ; and, at least, once in every month, to examine, and if they see fit, to pass, all bills and accounts against the City, which shall be certified by the Auditor.

[5] SEC. 5. *Be it further ordained*, That it shall be the duty of the Auditor to keep in a neat methodical style and manner, a complete set of books, under the direction of the Committee of Accounts ; wherein shall be stated among other things, the appropriation for each distinct object of expenditure, to the end that whenever the appropriations for the specific

objects shall have been expended, he shall immediately communicate the same to the City Council, that they may be apprised of the fact ; and either make a further appropriation, or withhold further expenditure for such object or objects as they may deem expedient : The Auditor shall also receive all bills and accounts from persons having demands against the City : examine them in detail ; cast up the same ; and have them filed and entered in books, in such manner and form as the Committee of Accounts shall order and direct. And when the Auditor shall have any doubt concerning the correctness of any such bill or account presented against the City, he shall not enter the same in a book until he shall have exhibited the same, with his objections, to the Committee of Accounts at their next meeting, for their consideration and final decision. And it shall also be the duty of the Auditor to render any other services, from time to time, as the City Council, or the Committee of Accounts shall direct.

[6] SEC. 6. *Be it further ordained*, That it shall be the duty of the Auditor, to receive all moneys collected by the City Clerk, the City Marshal, the Clerk of the Market, the Weighers of hay, or any other officer, who is or may be authorized to collect any moneys belonging to the City, the Collector and Treasurer excepted : and it shall be the duty of all such officers (the Collector and Treasurer excepted) to pay over to the Auditor from time to time, all moneys which they shall receive belonging to the City : and it shall also be the duty of the Auditor to pay over to the Treasurer, at least once in every week, all the moneys in his hands belonging to the City, and take his receipt therefor. He shall open an account with the Treasurer of the City, wherein he shall charge him with the whole amount of taxes placed in his, the said Treasurer's hands for collection ; also the whole amount in detail, of all bonds, notes, mortgages, leases, rents and interest receivable : and pay over and charge him with all moneys he may receive belonging to the City, in order that the value and description of all personal property belonging to the City, may be at any time known, at his office ; and from and after the end of the present municipal year, the said Auditor shall in the month of February annually make and lay before the City Council an estimate of the amount of money necessary to be raised for the expenditure of the ensuing year, under the respective heads of appropriation ; and shall on or before, the fifteenth of the month of May, annually make and lay before the City Council a statement of all receipts and expenditures of the past year, giving in detail the amount of appropriation and expenditure, for each specific object.

[7] SEC. 7. *Be it further ordained*, That the City Treasurer shall make up his annual accounts to the thirtieth of April; and the Financial year shall henceforth begin on the first day of May, and end on the thirtieth day of April in each year.

[8] SEC. 8. *Be it further ordained*, That from and after the commencement of the next municipal year, an ordinance of the City Council made and passed on the second day of August, in the year of our Lord one thousand eight hundred and twenty-four, entitled “An ordinance establishing a system of accountability in the expenditures of the City;” and another ordinance, made and passed on the twelfth day of May, in the year of our Lord one thousand eight hundred and twenty-five, entitled, “An ordinance in addition to, and to amend an ordinance entitled an ordinance establishing a system of accountability in the expenditures of the City,” shall cease to operate, and the same, from and after the commencement of the said next municipal year, are hereby repealed, provided, that nothing contained in this ordinance shall impair the validity or effect of any bond or bonds given by the Auditor of Accounts to the City.

CHAPTER III.

Actions. — Suits at Law.

ACTS OF THE LEGISLATURE.

[1] *Actions in favor of, or against the town of Boston to be brought in the County of Norfolk.*

[2] *Sheriff of Suffolk and deputies authorised to serve precepts.*

[3] *Actions may be brought in Counties of Norfolk, Middlesex or Essex.*

[4] *Coroner of Suffolk may serve precepts in actions between the Sheriff and town.*

[5] *Freeholders in Suffolk to appraise real estate in actions between the town and others.*

[6] *Actions commenced by the City may be brought in the County of Suffolk, unless the Defendant shall otherwise elect.*

[7] *Penalties under the acts*

relating to gun powder, wooden buildings, or to secure against fire may be recovered by action of the case.

[8] *Interest from inhabitan-
cy not to disqualify acting as a
magistrate, officer or juror.*

[9] *Repealing clause.*

[10] *Actions brought by
Mayor or Chief Engineer un-
der the act of June 11, 1828,
(see 6 &c.) to be prosecuted by
their successors.*

[11] *Actions brought by
Mayor or Engineer may be in
the name of the City.*

[12] *Actions brought by
Treasurer of towns, &c. on
bonds, to be in their own names.
—Treasurers to prosecute ac-
tions commenced by their pre-
decessors.*

An Act regulating the commencement of certain actions, in which the Inhabitants of the town of Boston, in the County of Suffolk, shall be a party. [*Passed June 10, 1808.*]

[1] SEC. 1. *Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That all actions to be commenced hereafter, wherein the inhabitants of the town of Boston, in the County of Suffolk, in their corporate capacity, shall sue, or be sued, and which cannot now by law be brought in any other county than the County of Suffolk, may and shall be brought in the County of Norfolk, any law to the contrary notwithstanding.

[2] SEC. 2. *Be it further enacted,* That the Sheriff of the County of Suffolk, or his deputy, be, and hereby he is au-

thorized to serve and execute within the said County of Suffolk, all writs and precepts to the said Sheriff, or his deputy, legally directed, wherein the said inhabitants of the town of Boston may be a party, notwithstanding the said Sheriff or his deputy may be an inhabitant of said town.

An Act in addition to an act, entitled, "An act regulating the commencement of certain actions, in which the Inhabitants of the town of Boston, in the County of Suffolk, shall be a party." [*Passed Feb. 13, 1816.*]

[3] SEC. 1. *Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That all actions to be commenced hereafter, wherein the inhabitants of the town of Boston, in the County of Suffolk, in their corporate capacity, shall sue or be sued, may be instituted and prosecuted in either of the Counties of Norfolk, Middlesex, or Essex, any thing in a law to which this in addition to the contrary notwithstanding.

[4] SEC. 2. *Be it further enacted,* That any Coroner of the County of Suffolk be, and he hereby is authorized to serve and execute all writs and precepts to him directed, wherein the inhabitants of the town of Boston shall sue or be sued, by the Sheriff of said county, or either of his deputies, notwithstanding said Coroner may be an inhabitant of said town.

[5] SEC. 3. *Be it further enacted,* That whenever an execution which has been issued on the judgment of any Court within this Commonwealth, in which judgment, the inhabitants of said town of Boston, shall be a party, shall be in the hands of an officer having authority to serve the same, and said officer shall be directed to extend the said execution on real estate of the debtor, situated in the said town of Boston, then the said officer shall cause three discreet men, being freeholders in said County of Suffolk, to be chosen and sworn to appraise such real estate, in the manner prescribed in the second section of an act of this Commonwealth, passed the seventeenth day of March, in the year of our Lord one thousand seven hundred and eighty-four, and entitled "An act, directing the issuing, extending, and serving of Executions," and the appraisement so made, shall be valid, notwithstanding the appraisers so chosen, or any of them, may be an inhabitant of said town.

An Act in further addition to an Act, entitled "An Act regulating the commencement of certain actions, in which the Inhabitants of the town of Boston, in the County of Suffolk, shall be a party. [*Passed June 11, 1828.*]

[6] SEC. 1. *Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That all actions hereafter commenced by the City of Boston, may be commenced and instituted, in the County of Suffolk, and be made returnable before any Court in the said County, proper to try the same, and therein may be prosecuted to final judgment and execution, in the same manner as other suits are therein commenced and prosecuted, unless the defendant or tenant in any such action shall state, in writing, to the Court, at the first term thereof, after such action is entered, or at the time of his entering his appearance, but before he shall plead in such action, that he is desirous of having the cause removed to some other county, in which case the Court wherein the same action is pending, shall order the same to be removed, and thereupon, it shall be the duty of the attorney for the City of Boston, to enter the said action, at the next term of any Court proper to try the same, in either of the Counties of Norfolk, Essex, or Middlesex, at his election, giving notice to the defendant or tenant, or his attorney, of the Court wherein the same shall be entered, and filing a certified copy of the writ, and officers return thereon, and order of removal, in the said Court; and thereupon the said Court, shall have jurisdiction over the said action, and all proceedings may be had, all attachments of real and personal estate, all bail bonds, and all depositions returned or taken for any such action, shall have force and effect, in the same manner as if the said action had been originally returnable in the Court to which it is removed: *Provided, however,* that if the said City of Boston shall prevail in said suit, no more costs shall be taxed for it, than if said action had been originally commenced in the county whereto it is so removed.

[7] SEC. 2. *Be it further enacted,* That any of the penalties or forfeitures provided for the violation of any of the acts regulating the storage, safe keeping or transportation of gunpowder, within the town of Boston, or to any of the acts to secure the town of Boston, against fire, or to regulate the building with wood, within the town of Boston, or to provide for the erection of two story wooden buildings in the City of Boston, may be sued for, and recovered, by action of the case, in the County of Suffolk, in the name of the Mayor of the City of Boston, or the Chief Engineer of the said City, for the use of

the City of Boston, as well as by indictment or information in the modes prescribed in the several laws now in force *Provided, however*, that on the statement in writing of any defendant in such action to the Court, at the first term thereof, after such action is entered, that he is desirous of having the cause removed to some other county, the Court wherein the same action is pending, shall order the same to be removed; and thereupon the same proceedings shall be had, and to the same force and effect in all respects, as for other causes of action, provided for by the foregoing section of this act.

[8] SEC. 3. *Be it further enacted*, That no person shall be disqualified from acting as a Magistrate, officer or juror, in any such action, in either of the foregoing sections provided, by reason of any interest that he may have, as an inhabitant of the City of Boston, in such suit, or in any money or other property to be thereby recovered.

[9] SEC. 4. *Be it further enacted*, That all the provisions of any acts now in force, inconsistent with the foregoing, be, and they are hereby repealed.

An Act in further addition to an Act, entitled "An act regulating the commencement of certain actions, in which the Inhabitants of the town of Boston, in the County of Suffolk, shall be a party." [*Passed Feb. 28, 1829.*]

[10] SEC. 1. *Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same*, That in case of the decease, resignation, or removal from office, of the Mayor of the City of Boston, during the pendency of any suit brought in his name, by virtue of an Act passed June eleventh, eighteen hundred and twenty-eight, the said suit shall not abate thereby, but upon a suggestion thereof to the Court in which such suit shall be pending, the successor and successors in office of the said Mayor shall be permitted to come in and prosecute such suit to final judgment and execution, in his and their names, in like manner as if the suit had originally been commenced by such successor; and in case of the decease, resignation or removal from office of the Chief Engineer of the City of Boston, during the pendency of any suit brought in his name, by virtue of the Act aforesaid, the said suit shall not abate thereby, but may in like manner, be prosecuted by the successor and successors in office of the said Chief Engineer, to final judgment and execution.

[11] SEC. 2. *Be it further enacted*, That any suit which may by law be brought in the name of said Mayor or of said Chief Engineer for the use of said city, may be brought in the name of the City of Boston.

An Act to enable the Treasurer of this Commonwealth, and the Treasurers of Counties, Towns and other corporations for the time being, to commence and proescute Suits at Law, upon securities given to their predecessors. [*Passed June 22, 1797.*]

[12] *Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same*, That the Treasurer of this Commonwealth, the Treasurers of Counties, Towns, Parishes, and other corporations, for the time being, be and hereby are authorized and empowered in their own names and capacities, respectively, to commence and prosecute to final judgment and execution, any suit or suits at law, upon any bonds, notes or other securities, which have been or shall be given to them or their predecessors in said capacity, and to prosecute to final judgment and execution, any suits which have been or shall be commenced by their said predecessors in said capacity, during their continuance in office, and pending at the time of their removal therefrom.

CHAPTER IV.

Attorney and Solicitor.

ORDINANCE OF THE CITY.

[1] <i>Time and mode of appointment of City Solicitor.</i>	<i>and defending suits, giving opinions, &c.</i>
[2] <i>His duties as to drafting instruments, commencing</i>	[3] <i>His Salary. (See post 4.)</i>
	[4] <i>Repealing clause.</i>

An Ordinance providing for the appointment and prescribing the duties of an Attorney and Solicitor for the city of Boston.

[*Passed June 18, 1827.*]

[1] SEC. 1 *Be it ordained by the Mayor, Aldermen and Common Council of the City of Boston, in City Council assembled,* That in the month of June, annually, there shall be chosen by concurrent vote of both branches of the City Council, an Attorney and Solicitor for the City of Boston, who shall be a Citizen and resident within said City, who has been admitted an Attorney and Counsellor of the Supreme Judicial Court of this Commonwealth, and who shall not hold any other office under the City Government during the period for which he shall be elected; and said Attorney and Solicitor shall be removable at the pleasure of said City Council.

[2] SEC. 2 *Be it further ordained,* That it shall be the duty of such Attorney and Solicitor, to draft all bonds, obligations, contracts, deeds, leases, conveyances, assurances and other legal instruments which may be required of him, by any ordinance or order of the Mayor and Aldermen, or of the City Council, or which by any such ordinance or order heretofore passed, are requisite and necessary to be done and made by and between the City of Boston, and any person or persons contracting with said City in its corporate capacity, and which by law, usage or agreement, the said City is to be at the expense of drawing. It shall be his duty to commence and prosecute all actions, and suits, brought, and to be brought by order of the City Government for or on account of any of the estate, rights, privileges, claims, or demands of the City, and to defend all actions and suits, brought or to be brought against the said City, or any officer of the City wherein or whereby any of the estate, rights, privileges, ordinances, orders, or acts of

the city government or any breach thereof may be brought in question before any court in this Commonwealth, and shall do all and every other professional act incident to the office, or which may be required of him by the city government, or by any joint or special committee thereof, or by any order or ordinance of the City Council or either branch thereof. The said Solicitor shall also when required, furnish the Mayor and Aldermen, the Common Council of the said City and any joint or special committee thereof with his opinions on any legal subjects which may be submitted to him, and shall render professional advice to the Overseers of the Poor, the Directors of the House of Industry, and to any officer of the City Government who may require his opinion on any subject touching the duties of their respective offices.

[3] SEC. 3. *Be it further ordained, [That the said Attorney and Solicitor shall be allowed the yearly salary of six hundred dollars in full compensation for his services as aforesaid, to which no addition shall be made for extraordinary professional services, except a reasonable allowance for travel, when his said duties may require his attendance out of the County of Suffolk, but said Attorney may be allowed in extraordinary cases, the aid of such additional Council as the City Government may from time to time think fit to provide.] [Repealed.]*

An Ordinance to repeal the third section of an ordinance entitled "An ordinance providing for the appointment and prescribing the duties of an Attorney and Solicitor for the City of Boston." [*Passed April 22, 1833.*]

[4] *Be it ordained by the Mayor, Aldermen and Common Council of the City of Boston, in City Council assembled, That the third section of an ordinance entitled "An ordinance providing for the appointment and prescribing the duties of an Attorney and Solicitor for the City of Boston," be, and the same is hereby repealed.*

CHAPTER V.

Auction.

ACT OF THE LEGISLATURE.

[1] <i>Limitations and restrictions in licenses—infringement of, penalty for.</i>	<i>ting infringements of on their premises, liable to fine.</i>
[2] <i>Householders, permit-</i>	[3] <i>Repealing clause.</i>

An Act in addition to the several Acts, Regulating the sale of goods by public Auction. [*Passed Feb. 21, 1820.*]

[1] SEC. 1. *Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That in all licenses granted to any person to sell goods and chattels by public Auction or out cry, within the Town of Boston, in the County of Suffolk, it shall, and may be lawful for the Selectmen of the said Town of Boston, or the major part of them, granting such license, to annex thereto, such conditions, limitations and restrictions, respecting the place or places, in said town, at, and within which the person so licensed, shall and may be allowed and authorized to sell goods and chattels by public auction or out cry, as shall appear to them to be needful and expedient for the public welfare. *See City Charter, (13.)* And any person who shall sell any goods or chattels whatsoever, by public auction or out cry, at any place within the said Town of Boston, contrary to the conditions, limitations or restrictions, contained in, or annexed to such license, shall be liable and subject to the same penalties and forfeitures, to be prosecuted for and recovered in the same manner, as if such person had sold such goods or chattels, by auction or out cry, without any license whatever.

[2] SEC. 2. *Be it further enacted,* That the owner, tenant or occupant of any house or store, having the actual possession and control of the same, who shall allow or permit any person, licensed as aforesaid, to sell any goods or chattels by public auction or out cry, in his said house or store, or in any apartment or yard appurtenant to the same, contrary to the conditions, limitations or restrictions, annexed to the license of such person, shall be liable and subject to the same penalties and forfeitures, to be prosecuted for and recovered in the same

manner, as if such owner, occupant or tenant, had knowingly allowed or permitted any unlicensed person, to sell any goods or chattels, by public auction, or out cry, in his said house and store, or in any apartment or yard appurtenant thereunto.

[3] SEC. 3. *Be it further enacted*, That the law of this Commonwealth, which was passed on the fifteenth day of June, in the year of our Lord one thousand eight hundred and fifteen, entitled "An Act, in addition to an Act entitled An Act to regulate the sale of goods at public vendue, and to repeal all laws heretofore made for that purpose, shall not apply or be enforced within the Town of Boston; and the same so far as it respects the said town, is hereby repealed.

CHAPTER VI.

Bird Island.

ACT OF THE LEGISLATURE.

[1] *No earth or stones to be taken from, without license in writing, &c. infringement, penalty for.*

An Act for the preservation of Bird Island, in Boston Harbor.

[*Passed June 12, 1818.*]

[1] *Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, That from and after the passing of this act, no earth or stones shall be taken from the Island, called Bird Island, in Boston Harbor, in the County of Suffolk, without license first had and obtained of the Selectmen of the said Town of Boston, for that purpose, in writing, by the person taking the same, specifying the quantity allowed to be removed, and the object of removing it. And every person, who, without permission obtained as aforesaid, shall remove any earth or stones from the said Island, in any boat, or in any ship or vessel whatsoever, shall forfeit and pay for each offence, the sum of twenty dollars to the use of the said Town, to be recovered by the Selectmen of the said town, by an action of debt in any court proper to try the same. [Power of Selectmen transferred to Mayor and Aldermen. See City Charter, (13.)]*

CHAPTER VII.

Boats and Lighters.

ACTS OF THE LEGISLATURE.

[1] <i>Lighters to be marked, false marking, penalty for.</i>	[3] <i>Marks to be renewed, &c.</i>
[2] <i>Persons to be appointed to mark boats, &c.</i>	[4] <i>Inspector—duty of.</i>
	[5] <i>Fees of Inspectors how regulated.</i>

An Act respecting Boats and Lighters employed in transporting stones, gravel or sand, within this Commonwealth.

[*Passed March 7, 1801.*]

[1] SEC. 1. *Be it enacted by the Senate and House of Representatives in General Court assembled and by the authority of the same,* That every boat or lighter, employed in transporting stones, gravel or sand, within this Commonwealth, shall be marked, at Lightwater mark; and at least, at five other places, with the figures four, twelve, sixteen, twenty-four and thirty, legibly made, on the stem and sternposts thereof; which figures shall express the weight such boat or lighter is capable of carrying, when the lower part of the respective numbers shall touch the water in which the said boat or lighter shall float. And every person who shall use or employ any boat or lighter, for the purpose of transporting stones, gravel or sand, as aforesaid, which shall not be marked as in this act is provided, shall forfeit and pay the sum of *fifty dollars*, to be recovered by an action of the case, in any Court proper to try the same, by any person who will sue therefor. And any person who shall put or cause to be put, on any boat or lighter as aforesaid, any false marks as aforesaid, shall be subject to the like penalty, to be recovered in like manner.

[2] SEC. 2. *Be it further enacted,* That it shall be the duty of the Selectmen in any town where boats and lighters are owned, which may be employed in transporting stones, gravel or sand, as contemplated in this act, to appoint annually, in the months of April or May, some suitable person to ascertain the capacities of all such boats and lighters, and mark the same as is prescribed in this act; who shall be under oath faithfully to perform the duty as herein prescribed.

An Act in addition to an Act, entitled "An act respecting Boats and Lighters, employed in transporting stones, gravel or sand, within this Commonwealth."

[*Passed June 15, 1815.*]

[3] SEC. 1. *Be it enacted by the Senate and House of Representatives in General Court assembled and by the authority of the same,* That the marks by an act, entitled "An act respecting boats and lighters, employed in transporting stones, gravel or sand, within this Commonwealth," directed to be made on boats and lighters, expressive of the weights, such boats and lighters are capable of carrying, shall hereafter be inspected once every year; and whenever such mark shall be found to be illegible, the same shall be renewed.

[4] SEC. 2. *Be it further enacted,* That whenever the Inspector shall be of opinion, that the burthen or capacity of any such boat or lighter shall have been diminished, or increased by any repairs made on the same, or otherwise, it shall be his duty forthwith to ascertain anew, the capacities of such boats or lighters, and to mark the same accordingly.

[5] SEC. 3. *Be it further enacted,* That the Selectmen of towns in which boats or lighters used for the aforesaid purposes are owned, be, and they hereby are empowered, and it shall be their duty, to regulate the amount of fees which may be demanded by the Inspector of boats and lighters, of the owners thereof, for the performance of the duties imposed upon him by this act, and that to which this is an addition.

CHAPTER VIII.

Boundary Line.

RECORDS OF THE TOWN OF BOSTON.

- [1] *Roxbury and Boston, agreement between as to line.*

ACTS OF THE LEGISLATURE.

[2] *Agreement between Boston and Roxbury ratified.*

[3] *Manner of running the line in future, provided for.*

[4] *South Boston, boundary of land set off from Dorchester to Boston, proviso respecting taxes.*

[5] *Lots to be set off for public purposes.*

[6] *Streets order of laying out.*

[7] *Brookline and Boston, boundary between described.*

[8] *Norfolk and Suffolk counties, line between to conform to the line of Boston and Brookline. Laws relating to*

wooden buildings not to extend to land transferred to the City from Brookline.

[9] *Chelsea and Boston, conditions of the connexion between.*

[10] *Duration of the act provided for.*

[11] *Act to be accepted by Town of Chelsea.*

[12] *Record of the acceptance.*

[13] *East Boston Company authorized to hold Noddles Island.*

[14] *To set off sites for Engine houses, &c.*

[1] Extract from the Records of the Selectmen of the Town of Boston—May 20, 1788.

The following boundary line between Boston and Roxbury was agreed upon by the Selectmen of both Towns, and the agreement accepted by the Selectmen of Boston.

“*To wit.*” Beginning at the mouth of the creek which opens into the bay leading to Cambridge, and as the creek runs until it comes in a range with the fence and trees between the land now occupied by the widow Susan Davis, formerly John Richardson, Esquire’s, and the land now belonging to the heirs of Samuel Wells, Esq., deceased, formerly Mr. Minot’s, then across the street or highway, until it comes to a large stone standing end-ways in the fence on the easterly side of said street or highway, and from thence south forty-three degrees east to a large stone standing end-ways in the ground about

eighty feet from the said street or highway, marked **B.** on the easterly side, and **R.** on the westerly side, and from thence the same course to a large stone standing in the meadow, marked **B.** on the northwesterly side, and **R.** on the southeasterly side; from thence turning and running north fifty-eight degrees, east by a straight line until it comes to a stone affixed in Lambs Dam, (so called) and from thence to the creek, and as said creek runs into the bay between the towns of Boston and Dorchester.

An Act for altering part of the boundary line between the towns of Boston and Roxbury, and for ratifying an agreement made between the said towns for that purpose.

[*Passed April 30, 1787.*]

Whereas, That part of the boundary line between the towns of Boston and Roxbury, which crosseth *Lambs Meadow*, so called, is nearly obliterated, and the Selectmen of said towns have petitioned this court that a new direct line may be established in lieu thereof, agreeably to a plan mutually agreed on by the said towns; and it appearing reasonable that said agreement should be ratified and confirmed:

[2] SEC. 1. *Be it enacted by the Senate and House of Representatives in General Court assembled and by the authority of the same*, That the agreement entered into between the towns of Boston and Roxbury, for altering that part of the boundary line between the said towns, which crosseth *Lambs Meadow*, so called, be, and the same is hereby ratified and confirmed.

[3] SECT. 2. *Be it further enacted, by the authority aforesaid*, That a line in lieu of the aforesaid obliterated boundary line, shall in all future perambulations thereof, be run in the following manner, that is to say, by a straight line in the same direction with the present line from the road leading from Boston to Roxbury, from the most easterly boundary marked stone in the said *Lambs Meadow*, one chain and forty-one links; thence turning and running north fifty-eight degrees east, by a straight line across the said meadow until it strikes the ancient boundary mark in *Lambs Dam*, so called.

An Act to set off the north-east part of the town of Dorchester.
and to annex the same to the town of Boston.

[*Passed March 6, 1804.*]

[4] SEC. 1. *Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That all that part of Dorchester, lying north-east of the following line, to wit : Beginning at a stake and stones at Old Harbor, so called, at the south-west corner of land formerly belonging to John Champney, running north thirty-seven and one half degrees west, to a large elm tree marked D. on the south-west side, and B. on the north-east side, standing on land belonging to the heirs of Thomas Bird, deceased ; then running the same course to a heap of stones on the south-east side of the road ; thence across the road, the same course, to a heap of stones on the north-west side ; thence on the same course to a black oak tree, standing on a small hummock marked D. on one side, and B. on the other side, upon land of Ebenezer Clapp, jr. ; thence the same course till it comes to Boston harbor, with the inhabitants thereon, be and they are hereby annexed to the town of Boston in the county of Suffolk, and shall hereafter be considered and deemed to be a part of the town of Boston : *Provided,* That the said tract of land and the inhabitants thereon, set off as aforesaid, shall be holden to pay all such taxes as are already assessed, or ordered to be assessed by said town of Dorchester, in the same manner as they would have been, if this act had not been passed.

[5] SEC. 2. *And be it further enacted,* That the proprietors of the said tract, shall assign and set apart three lots of land on the same, for public use, viz : one lot for the purpose of a public market place ; one lot for a school house ; and one lot for a burial ground, to the satisfaction and acceptance of the Selectmen of the town of Boston ; or in case the said Selectmen and proprietors shall not agree upon the said lots, it shall be lawful for the Supreme Judicial Court at any session thereof, in the said county of Suffolk, upon application of the said Selectmen, to nominate and appoint three disinterested freeholders within the Commonwealth, and not inhabitants of said town of Boston, to assign and set off the three lots aforesaid, by metes and bounds ; and the report of the said freeholders, or any two of them, being made and returned to, and accepted by the said Court, at any session thereof in said county, shall be final and binding upon all parties ; and the lots of land by them assigned and set off as aforesaid, shall thenceforth vest in the said town of Boston forever, without any

compensation to be made therefor by the town ; but if the person or persons whose land shall be assigned and set apart as aforesaid, shall demand compensation therefor, the same shall be appraised by three freeholders to be appointed as aforesaid, who shall also assess upon the other proprietors, the sum or sums which each shall be holden to pay to the person whose lands may be thus assigned for public use ; and the report of said freeholders or any two of them, being made and returned to, and accepted by said Court, judgment thereon shall be final, and execution awarded as in cases of reports of referees under a rule of Court.

[6] SEC. 3. *And be it further enacted*, That the Selectmen of the said town shall be, and hereby are authorized to lay out such streets and lanes through the said tract, as in their judgment may be for the common benefit of the said proprietors and of said town of Boston ; a reasonable attention being paid to the wishes of the proprietors ; and in case of disagreement between the Selectmen and proprietors, or either of them, the same proceedings shall be had as are provided by law in other cases for laying out town ways : *Provided, only*, that no damages or compensation shall be allowed to any proprietor for such streets and lanes as may be laid out within twelve months from the passing of this act : *And provided, also*, that the town of Boston shall not be obliged to complete the streets laid out by their Selectmen pursuant to this act, sooner than they may deem it expedient so to do.

An Act relative to the boundary lines of the City of Boston, and the town of Brookline. [*Passed February 22, 1825.*]

[7] SEC. 1. *Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same*, That the agreement made by and between the Mayor and Aldermen of the City of Boston, for and in behalf of said City, and the Selectmen of the town of Brookline, in behalf of said town, relative to the boundary lines between the said City and town, be and the same hereby is ratified and confirmed, and that henceforth the boundary lines between the said city and town shall be as follows, viz. beginning at a point marked (a) on a plan drawn by S. P. Fuller, 1123 feet distant westerly from the westerly side of the filling sluices of the Boston and Roxbury mill dam ; thence running northwesterly from the said point (a) at an angle of 115 degrees from the mill dam, until it strikes the centre of the chan-

nel of Charles River, and also running from the said point (a) southerly, at an angle of 103 degrees forty minutes, until it strikes the centre of the channel of Muddy River, at a point where the respective boundaries of Boston, Brookline, and Roxbury meet each other.

[8] SECT. 2. *Be it further enacted*, That the boundary lines between the counties respectively of Suffolk and Norfolk, so far as they are affected by this act, shall hereafter conform to the said boundary lines between the said city and town, and the same are declared and established to be the boundary lines between the said counties respectively, any thing in any former act to the contrary notwithstanding : *Provided, however*, That the several laws regulating the erection of buildings within the city of Boston, shall not extend to the land hereby transferred from the said town of Brookline, to the said city.

An Act in addition to "an Act to regulate the administration of justice within the county of Suffolk, and for other purposes."

[*Passed June 23, 1831.*]

[9] SEC. 1. *Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same*, That the connection which by law now subsists between the city of Boston and the town of Chelsea shall continue upon the following conditions, that is to say—First: The said town of Chelsea shall, by good and sufficient deeds, assign and release to the said city of Boston, all right, title and interest, in and to all the real estate and personal estate now belonging, or any time heretofore deemed and taken to belong to the county of Suffolk, and shall also relinquish to the said city of Boston, the exclusive care, management, jurisdiction and regulation of the court houses, jails, house of correction, and all other lands, buildings and establishments deemed county property, or in which the said county of Suffolk claims, or has claimed or exercised any care, management, jurisdiction or regulation as aforesaid. Secondly : That the said city of Boston shall be at liberty to apply, from time to time, to the Legislature, for any alterations in the laws establishing and regulating County, Municipal or Police Courts, or respecting the administration of justice, which the said City of Boston shall think expedient, without any let, hindrance, interference or claim of right, by the said town of Chelsea, before the Legislature or otherwise : *Provided* always, that some Court or Courts, within the said city of Boston, shall have jurisdiction,

in all matters and things, which, in relation to the town of Chelsea, or the inhabitants thereof, were cognizable by the Court of Common Pleas, or by the Court of Sessions in the county of Suffolk, before the passing of the Act to which this is in addition. Thirdly : That the said town of Chelsea may, at any time, apply to the Legislature to be set off from said county of Suffolk to any other county, without opposition from the said city of Boston.

[10] SECT. 2. *Be it further enacted*, That this act shall continue and be in force, so far as respects the connection aforesaid, between the said city of Boston, and the said town of Chelsea, for the space of twenty years, and thence afterwards until the same shall be altered by the Legislature, unless the said town of Chelsea shall, in the mean time, apply to the Legislature, and be set off as aforesaid : *Provided, however*, that the rights of property which shall be acquired by the said city of Boston, under this act, shall nevertheless remain forever vested in the said city of Boston.

[11] SECT. 3. *Be it further enacted*, That this act shall take effect whenever the said town of Chelsea, at any town meeting legally assembled, shall accept the same ; and from the time of such acceptance all rights of property of the town of Chelsea, in and to all the estate, real and personal, of the county of Suffolk, shall cease and determine and be vested in the said city of Boston ; and in case the said town of Chelsea shall refuse or neglect, for the space of three months from the passing of this act, to accept the same, then this act shall be of no force or effect.

CHELSEA, SEPTEMBER 5, 1831.

[12] The inhabitants of the town of Chelsea, having been duly notified and warned, agreeable to warrant issued by the Selectmen, assembled and passed the following votes in conformity with the articles of said warrant.

CHARLES TURNER, *Moderator*.

To take the question for the acceptance or rejection of an Act of the Legislature, passed June the 23d of the present year, entitled "an Act in addition to an Act, to regulate the administration of justice within the county of Suffolk, and for other purposes," and the question was taken by Yeas and Nays,—viz: twenty-eight Yeas, four Nays.

Extract from "An Act to incorporate the East Boston Company, in the City of Boston. [*Passed March 25, 1833.*]

[13] SEC. 2. *Be it further enacted*, That said corporation may purchase, hold and possess, in fee simple or otherwise, all or any part of that island situate in the city of Boston, known by the name of Noddle's Island, with all the flats around the same, and the privileges and appurtenances thereto appertaining, and all rights, easements and water courses therewith used and enjoyed, and to the proprietors of said island belonging; with such personal property as may be necessary for the proper conducting of the affairs of said corporation: *provided*, that the whole real and personal estate of said corporation shall not exceed in value the sum of five hundred thousand dollars: *and provided*, that the lawful owners or proprietors of such estates shall convey the same to said corporation. And said corporation shall also have power to sell and convey, lease, mortgage, or otherwise dispose of said corporate property, or any part thereof, and to manage and improve the same at its will and pleasure, with authority to construct dams, docks, wharves and buildings, and to lay out streets and passage ways within the limits of said island, as it shall deem expedient.

[14] SEC. 4. *Be it further enacted*, That said corporation shall set apart on said island, in such place or places thereon as the Mayor and Aldermen of the city of Boston may designate, a portion of land, not exceeding in the whole four acres, free of expense to the city, for the purpose of providing proper sites for engine houses, school houses, burial grounds, and for other public purposes: *provided*, that no lot, except the lots for burial grounds, shall contain more than ten thousand feet, without the consent of this corporation: *and provided further*, that said mayor and aldermen shall designate the land so to be taken within six weeks from the passing of this act.

CHAPTER IX.

Bread.

ACT OF THE LEGISLATURE.

[1] <i>Bread to be sold by weight.</i>		[2] <i>Weight and Marking regulated. Penalties.</i> [3] <i>Repealing clause.</i>
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An act for regulating the manufacture and sale of Bread.
 [Passed March 7, 1801.]

[1] SEC. 1. *Be it enacted by the Senate and House of Representatives in General Court assembled and by the authority of the same,* That from and after the first day of April next, all soft bread, whether baked in loaves or biscuit, which shall be exposed to sale by any Baker, or other person, shall be sold by weight.

[2] SEC. 2. *Be it further enacted by the authority aforesaid,* That all soft biscuit, which shall hereafter be offered for sale, shall weigh *four or eight* ounces, and be marked with the initial of the Baker's christian name, and his surname at length, and the weight of the biscuit; and all loaves of soft bread, shall be of some one of the following weights, viz : *one pound, two, three or four pounds,* and be marked with the weight of the loaf, and the maker's name; and if any Baker or other person, shall offer or expose to sale, any soft bread or biscuit, which shall not severally be marked, and conform to one of the weights before mentioned, every such person, so offending, shall forfeit and pay the sum of eight dollars, to be recovered by action of debt before any Justice of the peace within and for the County where such offence shall happen, by any person who shall sue for the same, together with legal costs; one half of the penalty aforesaid, to be for the use of the person who prosecutes, and the other half to the use of the poor of the town, where such offence may be committed.

[3] SEC. 3. *Be it further enacted,* That all laws heretofore made for regulating the assize of bread, be, and hereby are repealed, from and after the first day of April next, excepting so far as relates to the recovery of any forfeiture, fine or penalty incurred, or which may be incurred previous to that time, by a breach of any of said Laws.

CHAPTER X.

Bridges.

ACTS OF THE LEGISLATURE.

[1] *Boston Free Bridge Corporation*—draws and piers of, how to be built.

[2] *Toll not to be taken*—to be kept in repair—vessels to be accommodated—*Proviso* in case the city assumes the care.

[3] *City government empowered to erect the bridge.*

[4] *Repeal of former act.*

[5] *City may build wharves and piers.*

[6] *Penalty for injuring wharves or piers.*

[7] *Wharves &c. to be used for no other purpose.*

[8] *Boston South Bridge proprietors authorized to transfer the same to the city*—*Proviso* that the same shall be toll free.

[9] *Proprietors authorized to surrender their franchise unless the city pay within a certain time the sum agreed on.*

[10] *Repealing clause.*

[11] *Proprietors authorized to take up the same if the city does not pay the sum agreed on &c.—channel, &c. to be left unincumbered.*

[12] *Repealing clause.*

An Act establishing a Free Bridge in the City of Boston.

[*Passed March 4, 1826.*]

[The first section establishes the corporation.]

[1] **SECT. 2.** *Be it further enacted*, That said corporation be, and they hereby are authorized and empowered to build and construct, or cause to be built and constructed, a free bridge, with one or more suitable and sufficient draws, across the water and over the channel, in or near a direction in a straight line from or near Sea Street, in Boston, to the newly made land at South Boston, and nearly in the direction of the Dorchester Turnpike, and to erect a wharf or pier on each side of said bridge, near said draws, for the accommodation of vessels passing through said bridge; such bridge and wharves to be built in such manner as the city government of Boston shall approve: *Provided, however*, that said corporation shall be holden to make compensation to any person, or corporation, whose land shall be appropriated to the use of said bridge.

[2] **SECT. 3.** *Be it further enacted*, That no toll or duty shall ever be exacted or paid, for any travel over said bridge, or passing the draws of the same; and said corporation shall

always be held liable to keep said bridge and draws in good repair, and to raise the draw of said bridge, and afford all necessary and proper accommodation to vessels that have occasion to pass the same by night or by day, and shall keep said bridge sufficiently lighted; and if any vessel is unreasonably delayed or hindered in passing said draw, by the negligence of said corporation or their agents, in discharging the duties enjoined on them by this act, the owners or commanders of such vessels shall recover reasonable damage therefor, of said corporation, in an action on the case, before any court proper to try the same; and if the said corporation shall not, within three years from the passing of this act, locate, construct, build, and complete said bridge, agreeably to the provisions of this act, then this act shall be null and void: *Provided*, that whenever the city government of Boston shall assume the care and obligations of keeping said bridge in repair, lighting the same, and providing facilities for raising said draw or draws, as aforesaid, then the obligations hereby imposed on said corporation to that effect, shall be annulled, and the same shall devolve on the said city government; in which case the damages mentioned in this section, shall be sued for, before any court proper to try the same, in either of the counties of Middlesex or Essex. But unless the city government shall assume the care and obligations aforesaid, the said corporation, before commencing the building of said bridge, shall furnish adequate security, to the satisfaction of the said city government, for the due performance of the obligations and duties imposed on said corporation by the provisions of this act.

[The fourth section provides for the mode of recovery of compensation for land taken.]

[3] **SECT. 5.** *Be it further enacted*, That if the city government of Boston shall, within three months from the passing of this act, determine, by a concurrent vote of both branches of the said city government, to erect said bridge, they shall be at liberty so to do, on the same terms and conditions as said Boston Free Bridge Corporation are otherwise, by the provisions of this act, authorized to erect the same.

[4] **SECT. 6.** *Be it further enacted*, That an act passed on the twenty-fifth day of February, in the year of our Lord one thousand eight hundred and twenty-five, entitled an Act establishing a free bridge in the city of Boston, be, and the same is hereby repealed.

An Act in addition to an Act entitled "An Act establishing a Free Bridge in the City of Boston."

[*Passed March 18, 1831.*]

[5] SEC. 1. *Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same,* That the city of Boston be, and hereby is authorized to construct and maintain such wharves or piers, on either or both sides of the Free Bridge mentioned in the act to which this is in addition, as shall be necessary for the preservation and safety of said bridge, *provided, however,* that the said wharves or piers shall not extend in width from the sides of said bridge more than twenty-five feet.

[6] SECT. 2. *Be it further enacted,* That if any person shall wilfully do any injury or damage to said bridge, said wharves or piers, or shall disturb or hinder the said city in the occupation of said wharves or piers, for the purpose aforesaid, the person so offending shall forfeit and pay, for each offence, a penalty not less than fifty dollars, nor more than one hundred dollars, to the use of the Commonwealth, to be recovered by indictment, or information in any court of competent jurisdiction, and such person so offending shall be further liable to answer in damages to the city of Boston, *provided,* that nothing in this act shall be construed as intending to impair or affect the lawful rights of any person whatsoever.

[7] SEC. 3. *Be it further enacted,* That whenever the wharves or piers erected, or which shall be erected by the authority of this act, shall be used or improved for any other purpose or purposes than those herein specified, all right and authority to maintain them shall cease, and be void.

An Act in addition to an Act entitled "an Act to incorporate the proprietors of Boston South Bridge."

[*Passed June 23, 1833.*]

[8] SEC. 1. *Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same,* That the proprietors of the Boston South Bridge, are hereby authorized and empowered to sell, assign, and transfer to the city of Boston, the franchise and materials of said Boston South Bridge, to have and to hold the same to the said city and its successors forever. *Provided,* that no toll or duty shall ever be exacted or paid for any travel over said bridge, or passing the draw of the same, and the said city shall

always be held liable to keep said bridge and draw in good repair, and to raise the draw of said bridge, and afford all necessary and proper accommodation to vessels that have occasion to pass the same by night or by day, and shall keep said bridge sufficiently lighted.

[9] SEC. 2. *Be it further enacted*, That if on or before the fifteenth day of September next, the said city of Boston shall not pay to the proprietors of the Boston South Bridge such sum as may be agreed on between them and the city of Boston, and receive a transfer or assignment of the franchise and materials of said bridge according to the provisions of the first section of this act, then and in such case the said proprietors of Boston South Bridge are hereby authorized to surrender the franchise of said bridge to this Commonwealth, at any time within six months after said fifteenth day of September next, by a formal deed of surrender duly executed and filed in the office of the Secretary of this Commonwealth, and that from and after the day of such surrender, the said corporation shall be dissolved, and exist no longer as a body corporate, excepting for the purpose of suing and being sued for recovery of debts due unto or from said proprietors.

[10] SEC. 3. *Be it further enacted*, That so much of the act, to which this act is in addition, as is incompatible with the provisions of this act, be, and the same is hereby repealed.

An Act, in further addition to an Act to incorporate the Proprietors of the Boston South Bridge.

[*Passed March 16, 1832.*]

[11] SEC. 1. *Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same*, That, from and after the passing of this act, the proprietors of the Boston South Bridge be, and they hereby are authorized to discontinue said bridge, as a pass way, and at any time between the passing of this act, and the first day of August next, if the city of Boston, before the first day of May next, does not pay to said proprietors such sum of money as may be agreed upon by them and the said city, for a transfer and assignment of the franchise and materials of said bridge according to the first section of "an act in addition to an act, entitled an act to incorporate the proprietors of the Boston South Bridge," passed on the twenty-third day of June last,

the said proprietors are hereby authorized and empowered to take up the materials of said bridge, leaving the channel and flats under the same unincumbered by any of the timbers or materials composing the same, and also to sell and dispose of, at public or private sale, all the said materials of said bridge, and every other kind of property whatever belonging to said proprietors in their corporate capacity, as a compensation for the sums of money expended in the construction and erection of said bridge, and to divide the net proceeds of such sale among the respective stockholders, according to the number of their shares respectively. *Provided always*, that before said proprietors shall proceed to take up, or remove the materials of said bridge, they shall cause to be executed to the city of Boston bonds to the satisfaction of the Governor and Council, conditioned, that the said materials shall be taken up and entirely removed, so that the channel and flats under the same may be free from incumbrance in the same manner as they were before said bridge was built.

[12] SEC. 2. *Be it further enacted*, That so much of the several acts relating to said bridge to which this is in addition, as is incompatible with the provisions of this act be, and the same hereby is repealed.

[Subsequent to the passage of this act, the City became proprietors of the Boston South Bridge, by purchase according to the provisions of this and of a former act.]

CHAPTER XI.

Buildings.

ACTS OF THE LEGISLATURE.

[1] *Livery Stables, Riggers lofts, &c. to be licensed by Mayor and Aldermen. Penalties.*

[2] *Appropriation of penalties.*

[3] *Livery stables not to be erected within one hundred and twenty feet of a Church, &c.*

[4] *Penalties.*

[5] *Trespasses on Public Buildings, penalty for, how recovered.*

[6] *Trespasses on the State House, &c. penalty for.*

ORDINANCE OF THE CITY.

[7] *Notice of intention of building to be given to the Mayor and Aldermen.*

[8] *Numbers to be affixed to buildings.*

[9] *Cellar doors to be kept in repair. Mayor and Aldermen authorized to repair the same.*

[10] *Cellar doors to be lighted when open at night.*

[11] *Injuring or defacing Buildings, &c. penalty for.*

[12] *Injuring Reservoirs or drawing off water from, penalty for.*

[13] *Repealing clause.*

ACTS OF THE LEGISLATURE.

Extracts from "An Act for the extinguishment of fire, &c."

[*Passed March 10, 1797.*]

[1] **SECT. 5.** *Be it further enacted,* That if any person shall occupy or improve any tenement or building whatever, in any part of any maritime town in this Commonwealth, for the business or employment of a sailmaker, or rigger, or keeper of a livery stable, except only in such parts of the town as the Selectmen [*Mayor and Aldermen. City Charter (13)*] thereof, or a major part of them, shall direct and determine, such sailmaker or rigger, so offending, shall forfeit and pay for each offence, *ten dollars*: and such keeper of a livery stable shall forfeit and pay for each offence *fifty dollars* for every month so occupying the same, and so in proportion for a longer or shorter time.

[2] SEC. 2. *Be it further enacted*, That the several fines and forfeitures aforesaid, shall be two third parts thereof to the use of the poor of the town, where the offence shall be committed, and the other third thereof to him or them who shall inform and sue for the same, and shall be recoverable with costs of suit, in any court proper to try the same.

An Act to prevent Livery Stables being erected in certain places in the town of Boston. [*Passed Feb. 28, 1811.*]

[3] SEC. 1. *Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same*, That from and after the passing of this act no building shall be erected within the town of Boston, and used and improved as a stable for the taking in and keeping horses or chaises or other carriages, upon hire or to let, commonly called Livery Stables, within one hundred and seventy feet of any church or meeting house erected for the public worship of God: *Provided, however*, that this act shall not be so construed, as to prevent the finishing of any Stable which has been in part erected, if the completion thereof shall be approved by the Selectmen of the town of Boston.

[4] SEC. 2. *Be it further enacted*, That for any offence against the provision of this act, the owner or owners, keeper or keepers of such building, shall forfeit and pay the sum of one hundred dollars for every calender month during which the same shall be so used and improved to be recovered by action of debt, one half thereof to enure for the use of the poor of the town of Boston, the other half thereof to him or them who shall sue for the same.

An Act for the more effectually preventing of trespasses in divers cases. [*Passed Nov. 23, 1785.*]

[5] SEC. 4. *And be it further enacted by the authority aforesaid*, That when any trespasses shall be committed on any buildings or inclosures belonging to any county, town, or parish, the county, town, and parish treasurer, for the time being, shall be, and hereby are severally authorized, to sue for the damage done to the public buildings or inclosures of their county,

town or parish respectively ; and where any public buildings are owned partly by the town, and partly by the county, in that case the county or town treasurer, whoever may first institute an action, may prosecute for damages thus sustained : *Provided, nevertheless*, that nothing in this act shall prohibit any surveyor of highways moving any incumbrances in any public way, nor be construed to prevent any prosecution for theft where a theft is committed.

An Act to prevent trespasses on the State House, and other public buildings. [*Passed March 26, 1833.*]

[6] *Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same*, That if any person shall wilfully deface, mar or injure the walls, wainscotting, or any other part of the State House, or any other building belonging to the Commonwealth, by cutting, writing, or in any other way, said person so offending shall forfeit and pay, for each offence, a fine of not less than four dollars, to be recovered on complaint made before any court competent to try the same, the one half of the penalty so recovered to enure for the benefit of the prosecutor, and the other half to the use of the Commonwealth.

ORDINANCE OF THE CITY.

An Ordinance concerning Buildings and Reservoirs in the City, and for preventing trespasses on the same. [*Passed Nov. 14, 1833.*]

[7] SEC. 1. *Be it ordained by the Mayor, Aldermen and Common Council of the City of Boston, in City Council assembled*, That hereafter all persons, intending to erect, or to make any alterations in the external walls of, any building or buildings of any description, any part of which is to be placed upon or within ten feet of any of the public streets, squares, alleys or lanes of the City, shall before he, or they proceed to build and erect the same, or to lay the foundation thereof, or to make the said alterations, give notice in writing of such their intention to the Mayor and Aldermen, fifteen days at least before doing any act for carrying such their intent into execution, in order that any encroachment or any other injury or inconvenience to the said public streets, squares, lanes, or alleys,

which might otherwise happen, may be thereby prevented, and in default thereof, that the city be considered as discharged from all damages of any nature whatsoever, resulting from the failure to give notice as above provided, particularly from all such damages or expenses as have been enhanced or occasioned by reason of any thing done previously to, or without such notice.

[8] SEC. 2. *Be it further ordained*, That the Mayor and Aldermen shall have power, (provided it can be done without expense to the city) to cause numbers of regular series, to be affixed to or inscribed on, all dwelling houses and other buildings erected or fronting on any street, lane, alley, or public court within the city of Boston, at their discretion; and shall also have power to determine the form, size, and material of such numbers, and the mode, place, succession and order, of inscribing or affixing them on their respective houses or other buildings.

[9] SEC. 3. *Be it further ordained*, That whenever any cellar door or the platform thereof shall project into any of the streets, lanes, alleys, public squares or places within the city, it shall be the duty of the owners and occupants of the buildings or estate to which the same belong to keep the same in good repair. And if at any time the said cellar doors or platforms are out of repair, so that in the opinion of the Mayor and Aldermen the safety of the inhabitants is thereby endangered, the Mayor and Aldermen are hereby authorized to notify the said owners and occupants of the fact; and if said owners or occupants neglect or refuse for the space of twenty-four hours to repair the same, the said Mayor and Aldermen shall forthwith cause the same to be repaired at the expense of said owners or occupants, and said owners and occupants shall in case of such neglect or refusal as aforesaid, be further liable to a penalty of not less than one nor more than twenty dollars for each and every day that said cellar door or the platform thereof shall continue to be out of repair.

[10] SEC. 4. *Be it further ordained*, That whenever any of the cellar doors before mentioned are open or the platforms thereof removed at any time during the night, it shall be the duty of the occupant of the cellar to which the same belongs, to cause a sufficient light to be so placed that the opening of said door or removal of said platform shall at all times during the night, be distinctly visible. And any person offending against the provisions of this section shall forfeit and pay a sum not less than one nor more than twenty dollars.

[11] SEC. 5. *Be it further ordained*, That any person or persons, who shall be guilty of defacing any building or

buildings, fence, sign, or other property, in the city by cutting, breaking, daubing with paint, or in any other way defacing or injuring the same, shall upon conviction thereof, pay a fine not exceeding twenty dollars.

[12] SEC. 6. *Be it further ordained*, That any person who shall injure any public Reservoir, or who shall break and enter the same and draw off, or cause to be removed any of the water therefrom, except in case of fire, or unless duly authorized by the Mayor and Aldermen or Chief Engineer of the fire department, shall forfeit and pay a sum not less than one nor more than twenty dollars.

[13] SEC. 7. *Be it further ordained*, That all ordinances and orders heretofore passed on the subjects of this ordinance are hereby repealed, except so far as may be necessary for the recovery of any penalty incurred for the breach thereof.

CHAPTER XII.

Carriages and Horses.

ACTS OF THE LEGISLATURE.

[1] *Carriages &c. to be licensed and regulations relating to stands to be made by Selectmen, (Mayor and Aldermen—Sec. (13) City Charter.)*

[2] *Carriages, &c. to be numbered and registered.*

[3] *Unlicensed carriages—Penalties for—What carriages to be considered as unlicensed.*

[4] *Licenses to be annulled—for what causes.*

[5] *Owner, who to be considered—rules &c. what to be considered a sufficient notice of.*

[6] *Rates for hackney carriages to be established by Se-*

lectmen. (Mayor and Aldermen.) Penalties for demanding unlawful rates.

[7] *Repealing clause.*

[8] *Sidewalks—carriages &c. not to be driven on.*

[9] *Streets—carriages &c. not to be left in.*

[10] *Disposal of penalty.*

[11] *Stands for carriages to be appointed by Selectmen (Mayor and Aldermen.)*

[12] *Rules and orders for regulation of carriages in the streets, to be made by Selectmen, (Mayor and Aldermen) how to be published—Penalties.*

ORDINANCE OF THE CITY.

[13] *Carriages, &c. in time of snow to have bells.*

[14] *Drivers to hold reins; horses, &c. not to gallop.*

[15] *Driver to remain near his carriage—not to obstruct the streets.*

[16] *Stands for—to be appointed.*

[17] *Carriages, &c. how placed.*

[18] *Not across streets, to remove on request.*

[19] *Trucks, &c. to be marked.*

[20] *Tire, breadth of.*

[21] *Horses, how many in carts—except, &c.*

[22] *Felloes, width of.*

[23] *Trucks, length of.*

[24] *Loads, weight of, except, &c.*

[25] *Not to obstruct streets when loading.*

[26] *Carriages, &c. not to stand in streets.*

[27] *To be driven at foot pace.*

[28] *Not to be placed across intersection of streets.*

[29] *Carriages, &c. to turn to the right in passing.*

[30] *Beasts, cruelty to; not to be washed publicly on the Lord's day—nor turned loose.*

[31] *Breach of ordinance; penalty for.*

[32] *Repealing clause.*

ACTS OF THE LEGISLATURE.

An Act for regulating Hackney Carriages in the town of Boston, and to repeal an Act heretofore made for that purpose.

[*Passed Nov. 25. 1796.*]

[1] SECT. 1. *Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same,* That no person or persons shall be permitted to set up, or employ any Coach, Chariot, Coachee, or other Carriage in the town of Boston, for the purpose of conveying persons for hire, until the owner thereof shall obtain a license for that purpose, in writing, from the major part of the Selectmen of said town ; which license shall be and remain in full force for one year from the date of it, unless sooner revoked or annulled by said Selectmen, or the major part of them ; and the said Selectmen are hereby authorized to grant licenses for such number of hackney coaches and carriages, and to make such rules and regulations for the standing of said carriages in the different streets of said town, as they shall judge proper, and the same to change and vary as occasion may require.

[2] SEC. 2. *And be it further enacted,* That the Selectmen of said town be, and they are hereby authorized and directed, to cause all such hackney carriages to be numbered and registered in a book to be kept by the town Clerk for that purpose : and the number of each carriage shall be fixed upon the same, in such conspicuous place or places as the said Selectmen shall direct. And the fees for each license, to be paid by the person receiving the same, shall be one dollar.

[3] SECT. 3. *And be it further enacted,* That any person who shall set up, or use any hackney carriage for the purpose aforesaid, without having obtained a license from the said Selectmen, or who, having obtained such license, shall continue to keep and use such carriage after the same license shall be revoked, annulled, or become void according to this act, shall forfeit and pay for every time such carriage shall be used, a sum not exceeding four dollars. And every such hackney carriage that shall be found standing or plying in any street or highway contrary to the regulations of the said Selectmen, or without its number painted on it as aforesaid, or after the license therefor shall have been revoked, or annulled by the said Selectmen, or expire by this act, and before the same shall have been renewed, shall be considered as an unlicensed carriage, and the owner of the same shall be subjected to the like forfeiture, as in the case of an unlicensed carriage, for every such offence.

[4] SEC. 4. *And be it further enacted*, That the said Selectmen be, and hereby are authorized and empowered to revoke and annul any license by them given as aforesaid, at any time they may think proper, for the breach of any rules and regulations by them prescribed, or for any gross misbehaviour of the driver, in driving, in abusive language, or otherwise ; complaint having been previously made to them, and they having heard the parties, or the owner after reasonable notice, making default of appearance to answer thereto.

[5] SEC. 5. *And be it further enacted*, That the person in whose name a license is taken out for a hackney carriage as aforesaid, shall for all the purposes of this act, be considered as the owner of the same, and liable to all forfeitures and penalties herein contained, unless upon the sale of his carriage, notice be given thereof, and the license delivered up to the Selectmen ; and the publications of the rules and regulations of said Selectmen, and of the annulling and revoking any license as aforesaid, in the newspaper printed by the printer for the Commonwealth, for the time being, shall be deemed and taken, to all intents and purposes, as sufficient notice of the same to all such owners of carriages as aforesaid.

[6] SEC. 6. *And be it further enacted*, That a major part of the Selectmen, be authorized and empowered to make such rules and regulations, establishing the rates and prices to be paid for the carriage and conveyance of persons in said hackney coaches within the limits of the town of Boston, as they may from time to time judge reasonable ; regard being had to the time and distance. And if any owner or driver of a hackney carriage, shall demand and extort from any person or persons a sum beyond the rates which may thus be established by the said Selectmen, the license of such carriage, upon complaint made to the Selectmen as aforesaid, after a due hearing, may be forfeited and revoked ; and the owner shall be further liable to refund the sum thus received and extorted, to the party grieved. And all the penalties and forfeitures aforesaid, shall be recovered in an action on the case, before any Justice of the Peace of the county of Suffolk, to the use of the person who shall sue for the same.

[7] SEC. 7. *And be it further enacted*, That an act for regulating hackney carriages in the town of Boston, made and passed on the twenty-third day of February, in the year of our Lord one thousand seven hundred and ninety-six, be and the same hereby is repealed, excepting so far as the licenses granted under the same act shall continue and be in force, but subject to the conditions and limitations of this act.

Extract from an Act, entitled “ An Act to regulate the paving of streets in the town of Boston, and for removing obstructions in the same.” [*Passed June 22, 1799.*]

[8] SEC. 5. “ And if any person shall drive any horse or cart, or any wheel carriage of burthen or pleasure, or wheel any wheel barrow on the foot walk of any street in said town of Boston, such person shall forfeit and pay the sum of *one dollar* for every such offence, to be recovered by action of debt, in the name of the Surveyors of high ways, before any Justice of the Peace, in the county of Suffolk.”

[9] SEC. 7. *And be it further enacted*, That if any driver, owner, or person having the ordering or care of any cart, wagon, stage or hackney coach, stage wagon, or other carriage, new or old, finished, or unfinished, shall suffer the same to be and remain in any street, lane or alley of the said town, more than one hour after the same shall have first been placed there unless by the permission of the Surveyors of highways, every such owner, driver, or person having the care or ordering of such carriage as aforesaid, shall forfeit and pay the sum of *one dollar*, for each and every such offence, to be recovered as above directed: *Provided, nevertheless*, that no prosecution shall be commenced against any driver of any cart or wagon coming from the country, unless by the particular direction and order of the Selectmen.

[10] SEC. 8. *And be it further enacted*, That all the forfeitures and fines which may be recovered in pursuance of this act, shall go and be distributed, one moiety thereof to the poor of the town of Boston, and the other moiety to the Surveyors of high ways.

Extract from “ An Act in addition to the several acts now in force, to regulate the paving of streets in the town of Boston, and for removing obstructions in the same.”

[*Passed June 19, 1809.*]

[11] SEC. 2. *Be it further enacted*, That the Selectmen of the town of Boston, shall be, and they hereby are empowered to appoint suitable place in the streets or squares of said town, in which all wagons, carts, sleds or other carriages shall be directed to stand.

[12] SEC. 3. *Be it further enacted*, That said Selectmen shall have power, from time to time, to make and adopt such rules

and orders, for the due regulation of all such carriages, in the streets of the town of Boston, as to them shall appear necessary and expedient ; which rules and orders shall be published at least one week, in two of the newspapers printed in the said town ; and any owner or driver of any carriage, who shall offend against any such rule or order, so adopted and published, shall forfeit and pay a sum not exceeding five dollars, to be recovered upon complaint of either one of the Selectmen of said town of Boston, before any one of the Justices of the Peace for the county of Suffolk ; and all such fines and forfeitures shall be paid for the use of the person prosecuting for breach of any such rule or order.

An Ordinance for the regulation of Horses and Carriages within the City of Boston. [*Passed Sept. 9, 1833.*]

[13] SEC. 1. *Be it ordained by the Mayor, Aldermen and Common Council of the City of Boston, in City Council assembled,* That no carriage of any description, whether of burden or pleasure, shall be driven through any part of said city, during any time that the snow or ice shall be upon or cover the streets, squares, lanes or alley, of the said city, unless there shall be three or more bells, attached to the horse or horses or to some part of the harness thereof.

[14] SEC. 2. *Be it further ordained,* That no person whatsoever shall sit or stand, in or upon any carriage, or on any beast harnessed thereto with intent to drive the same, unless he shall have strong reins, or lines fastened to the bridle of said beast, and held in his hands, sufficient to guide and restrain such beast from running, galloping, or going at immoderate rates through the streets, lanes and alleys of the city ; and no person whatsoever, driving any such carriage, or riding upon any beast, in or through the streets, lanes or alleys aforesaid, shall suffer the said beast to go in a gallop or other immoderate gait.

[15] SEC. 3. *Be it further ordained,* That every driver of any carriage, or other vehicle, within the City of Boston, shall remain near to the said carriage or vehicle, whereof he is the driver, while it is unemployed, or standing in the public streets and squares of the city unless he shall be necessarily absent therefrom, in the course of his duty and business ; and shall so keep his horse, or horses, and carriage or other vehicle, as that the same shall not obstruct the said streets, or squares or other public passages, in any other manner than is allowed

by law, or the ordinances of the City Council, or orders of the Mayor and Aldermen. And no driver of any carriage, or other vehicle, while waiting for employment either at any stand which is, or may be appointed for such carriages or other vehicles respectively, or in the public streets or squares of the city, shall snap or flourish his whip.

[16] SEC. 4. *Be it further ordained*, That the Mayor and Aldermen be, and they are hereby authorized and empowered to appoint, from time to time, as occasion may require, such and so many stands for carts, trucks, wagons, and sleds, as to them shall appear requisite. And no owner or driver of any cart, wagon, sled or other carriage, shall stand in any other place with the same, than such as has been, or shall be directed and established by the Mayor and Aldermen, in pursuance of this ordinance.

[17] SEC. 5. *Be it further ordained*, That every owner, or driver, of any cart, truck, wagon, or sled, shall place his horses and cart, truck, wagon, sled, or other carriage, lengthwise, as near as possible to the post, or abutting stone of the foot or side walk of the street in which he shall stand; and no more than one range of carts or trucks, shall stand in streets not more than thirty feet wide, and not more than one range on each side, in streets which are of a greater width than thirty feet; and in squares and other open places, they shall be arranged by the said owners, and drivers, by order of, and conformably to, the directions of the Mayor and Aldermen, in this respect.

[18] SEC. 6. *Be it further ordained*, That no owner or driver of any carriage, or other vehicle for pleasure or burden, shall stop or place the same, in any such manner as to cross the street, or side-walks, or so as to prevent other carriages or foot passengers from passing in the direction of such street, except to load or unload, as is provided in the ninth section of this ordinance; but such driver or owner, in such cases, shall upon request of such passenger cause the same to be removed; and no such owner or driver, shall absent himself from his carriage, or other vehicle, so as to prevent the making of such request.

[19] SEC. 7. *Be it further ordained*, That every truck, cart, wagon, and sled, belonging to any inhabitant of the city shall be marked in at least two places, with the initials of the christian, and the whole of the surname of the owner, or owners of the same, strongly and legibly, in paint, upon a plate of tin or iron, and also numbered in the same manner, which names and numbers shall be placed upon the outside of both shafts, of every truck, and upon both sides of every cart, wagon, and

sled, and so be kept, as at all times to be clearly visible and discernable to all persons passing and repassing the streets during the day time, on either side of said cart, wagon, or sled.

[20] SEC. 8. *Be it further ordained*, That the tire of the wheels of all the carts and trucks used in the city, which shall be drawn by more than one horse, shall be in breadth not less than four inches, and the heads of the nails of the tire of all such wheels, shall be flat.

[21] SEC. 9. *Be it further ordained*, That not more than two horses, shall be harnessed to and permitted to draw any truck, or sled, in or through any of the public streets, squares, lanes, or alleys of the city, and not more than three horses shall be harnessed to and permitted to draw any cart, wagon, or drag, in or through any of the public streets, squares, lanes, or alleys of the city, unless in either of the above cases, for the carriage of any one single article, exceeding one ton in weight, and which cannot be divided : *Provided*, that the Mayor and Aldermen may grant permission, upon any special application for that purpose, for more than two horses to draw any truck or sled, and for more than three horses to draw any cart, wagon, or drag, when they may think it reasonable or necessary : *Provided, also*, that four horses may, without such special permission, be attached to, and permitted to draw, any wagon, employed to transport loads out of the city into the country, or from the country into the city ; said four horses being yoked in pairs, or so harnessed, that two shall travel abreast.

[22] SEC. 10. *Be it further ordained*, That the felloes of the wheels of every drag machine, (which wheels shall hereafter be constructed and used in this city) for carting or removing timber, which shall exceed one ton in weight, shall not be less than six inches in width, that the tire of the wheels of such machine, shall be of the width of said felloes, and the heads of the nails of said tire, shall be flat.

[23] SEC. 11. *Be it further ordained*, That no truck shall be used in this city, the length whereof, from the end of the shaft to the extreme end of the side, shall be greater than *twenty-four feet and six inches*.

[24] SEC. 12. *Be it further ordained*, That no person hereafter shall cause to be carried on any truck or cart, any load, the weight whereof shall exceed one ton and a half ; or any wagon, any load the weight whereof shall exceed two tons ; excepting the load which may consist of an article which cannot be divided : *Provided, however*, that it shall be lawful to transport from the country into the city, or from the city into the country, on any wagon, the tire of the wheels of which,

shall be in breadth not less than four inches, any load, the weight whereof shall not exceed two tons and a half.

[25] SEC. 13. *Be it further ordained*, That no truck, cart or other vehicle, shall be so placed in any street within this city, by the owner or owners, or by the driver thereof, either to load or unload, as to prevent the passing of any other truck, cart, or carriage of any description, unless it be for a reasonable time, for the loading or unloading of heavy articles the weight of which, in any several parcel or package, shall not be less than one hundred pounds ; which time shall not exceed six minutes.

[26] SEC. 14. *Be it further ordained*, That no owner or driver of any truck, cart, sled, wagon, or other carriage, intended to be used to carry for hire, shall place his cart, truck, sled, wagon or other carriage, in any street, lane, or square, within this city, to stand there, to be employed, unless such owner shall first obtain the consent of the Mayor and Aldermen of the city, so to place the same.

[27] SEC. 15. *Be it further ordained*, That all drivers and other persons, having the care, and control of any truck, cart, wagon, sled, or drag passing in or through the streets, squares or lanes of the city, shall drive their horses or beasts at a moderate foot pace, and shall not suffer or permit them to go in a gallop or trot ; and such driver or other person shall hold the reins in his hands, to guide and restrain such horses, or beasts ; or he shall walk by the head of the shaft or wheel horse, either holding or keeping within reach of the bridle or halter of said horse, or other beast, to enable him to guide and restrain them in manner aforesaid.

[28] SEC. 15. *Be it further ordained*, That no driver of any truck, cart, wagon, sled, or other carriage, for pleasure or burden shall stop, or place any such truck, cart, wagon, sled, or other carriage, at, or near the intersection of any street, lane or alley in this city, in such manner as to cross the foot way, or flag stones, or prevent foot passengers from passing the street, lane, or alley, in the direction, or line of the footway, or flag stones on the side of such street, lane or alley ; and the said drivers shall immediately, on the request of any foot passenger cause the same to be removed, and the said drivers shall not absent themselves so that such requests cannot be made.

[29] SEC. 17 *Be it further ordained*, That in all cases of persons meeting each other in the street, lane, square, or court within this city, in carriages, wagons, carts or sleighs, or on any beast, each person so meeting shall go to that side of the street, lane, square, or court, on his right, so as to enable the carriages, wagons, carts, sleighs or beasts, so meeting to pass each other.

[30] SEC. 18. *Be it further ordained*, That no person shall unreasonably or cruelly beat or otherwise use or abuse any horse or other beast, under his care, within the City of Boston ; and no person shall be permitted, or allowed to lead, drive or ride, any horse, or other beast of burden to any pond, or to any part of the sea, or to any other public place, to be washed upon the Lord's Day. And no person shall turn any horse, or other beast of burden loose within the City of Boston, or voluntarily permit or suffer the same to go at large therein.

[31] SEC. 19. *Be it further ordained*, That whoever shall offend against any provision of the foregoing sections, or either of them, shall forfeit and pay for each offence a sum not less than one dollar nor more than twenty dollars, to be recovered by complaint before the Justices of the Police Court.

[32] SEC. 20. *Be it further ordained*, That all such Orders, By-Laws and Ordinances, heretofore made and passed on the subjects of this ordinance, as are inconsistent with the provisions thereof, be, and the same are hereby repealed.

CHAPTER XIII.

Chimneys and Chimney Sweepers.

ORDINANCE OF THE CITY.

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| <p>[1] <i>Chimneys to be examined and repaired; penalty for not repairing—defective chimneys to be abated by Mayor and Aldermen.</i></p> <p>[2] <i>Sweepers of chimneys to be licensed—penalty for</i></p> | <p><i>sweeping without license—or employing unlicensed persons.</i></p> <p>[3] <i>Foul chimneys, how to be examined—fires not to be kept in—penalty.</i></p> <p>[4] <i>Repealing clause.</i></p> |
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An ordinance for the regulation of Chimneys, and Chimney Sweepers.

[*Passed Dec. 28, 1825.*]

SEC. 1. *Be it ordained by the Mayor, Aldermen and Common Council of the City of Boston, in City Council assembled,* That the Mayor and Aldermen, upon complaint made to them, or upon their knowledge and view of any defective chimney, or other fire place within this city, shall, from time to time, take effectual care that the same shall be examined and inspected; and, when in their opinion the safety of the city requires it, shall order the same to be immediately amended or repaired if the same can be properly done, otherwise, to be taken down and demolished. And if the owner or owners of such defective chimney or fire place, shall wilfully neglect or refuse to amend, repair or take down the same, the said owner or owners shall forfeit and pay a sum not less than one, or more than twenty dollars: *Provided*, that such owner or owners shall have been served with an order in writing from the Mayor and Aldermen to amend, repair or take down the said defective chimney or fire place (as the case may be,) duly certified by the City Clerk; an attested copy of which order, made and certified by the said City Clerk, shall be duly served upon such owner or owners, by any person appointed for that purpose, by the said Mayor and Aldermen. And the said Mayor and Aldermen for the time being, shall have full power and authority to order and direct, and they are hereby required to cause such defective chimney or fire place, to be taken down and abated as a common nuisance—and the owner or

owners of such defective chimney or fire place, shall in such case bear, satisfy and pay the whole expense and charge of abating such nuisance, and of taking down and removing such defective chimney or fire place.

[2] SEC. 2. *Be it further ordained*, That the Mayor and Aldermen be and they are hereby authorized and directed, to appoint and license, from time to time, suitable persons to be sweepers of chimneys in this city, who, together with their apprentices, and others by them employed, shall wear such badges as the Mayor and Aldermen shall appoint and direct, and whose wages and compensation for their work and service in sweeping of chimneys, shall not exceed the rates, which are or may be fixed and appointed by the Mayor and Aldermen. And if any person who shall not be appointed and licensed as aforesaid, shall presume, either by himself or by his apprentices, or others by him employed, to undertake the sweeping of any chimney in this city, excepting such as are in his own occupation, every such person shall forfeit and pay a sum not less than *one dollar*, nor more than *ten dollars*, for every offence of which he shall be duly convicted. And no inhabitant of this city shall employ any person, (excepting his, or her own servant, being in his or her house,) to sweep any of his or her chimneys, within the city, other than one of the chimney sweepers appointed and licensed as aforesaid by the Mayor and Aldermen; and if any inhabitant of this city shall employ any person, other than the chimney sweepers appointed and licensed as aforesaid, in violation of the provisions of this ordinance, he or they shall forfeit and pay a fine not less than *one dollar* nor more than *ten dollars*.

[3] SEC. 3. *Be it further ordained*, That when and so often as complaint be made to the Mayor and Aldermen, by any chimney sweeper appointed and licensed as aforesaid, or by any other inhabitant of the city, against any person or persons that their chimneys are unsafe by reason of foulness, the Mayor and Aldermen, or any other person by them empowered, are hereby directed to inspect and view, or order to be inspected and viewed and to them reported, every such chimney complained of as aforesaid; and if upon such view, inspection and report, the Mayor and Aldermen shall, either from their own view, or the report of the person appointed to view as aforesaid, judge the same to be unsafe and dangerous to make and keep fire therein by reason of foulness, the said Mayor and Aldermen shall give notice thereof to the person or persons in the possession or occupancy of the house or tenement to which such chimney or chimneys belong; and every occupier or occupiers of such house or tenement,

shall forfeit and pay a sum not less than *one dollar*, nor more than *twenty dollars*, for every day in which fire shall be made and kept in such chimney or chimneys respectively, by such occupier or occupiers, after notice shall have been given them in manner aforesaid, until the same shall be properly and sufficiently swept.

[4] SEC. 4. *Be it further ordained*, That a by-law of the town of Boston made and passed on the twenty second day of May, in the year of our Lord, one thousand eight hundred and one, entitled "a law for the regulation of Chimneys and Sweepers," be and the same is hereby repealed.

CHAPTER XIV.

Common and Common Lands.

AN ORDINANCE OF THE CITY.

[1] *Horses not to be rode on the common.*

[2] *Sward, gravel, &c. not to be taken from the common.*

[3] *Trees on the common or malls not to be injured, &c.*

[4] *Filth, &c. not to be placed on the common.*

[5] *Carpets where not to be shaken.*

[6] *Cattle, &c. not to go at large—When to be impounded.*

[7] *Penalties.*

[8] *Repealing clause.*

An ordinance in relation to the Common and Common lands of the City, and regulating the going at large of Cattle.

[*Passed Nov. 4, 1833.*]

[1] SEC. 1. *Be it ordained by the Mayor, Aldermen, and Common Council of the City of Boston, in City Council assembled, That no person or persons shall ride, lead or drive any horse or horses of any description, in or upon the open grounds in the city, called the Common, unless by permission or order of the Mayor and Aldermen : Provided, however, that on occasions of military exercise, parade or review, the introduction of any horses on the Common, which may be necessary for the purpose of such exercise, parade, or review, shall not be deemed an infraction on this ordinance.*

[2] SEC. 2. *Be it further ordained, That no person shall breach, dig up, or carry away, any of the sward, gravel, sand, turf, or earth, in or from any part of the Common or common lands of this city, unless by order and permission of the Mayor and Aldermen for the purpose of some public use.*

[3] SEC. 3. *Be it further ordained, That no person except by the order or permission of the Mayor and Aldermen, shall top, peal, cut, deface either by posting up bills of any description or otherwise, injure or destroy, any of the trees, growing, or which shall hereafter be planted on the Common or either of the Malls adjoining the Common, or on the common lands of the city, or in any street or public place therein.*

[4] SEC. 4. *Be it further ordained*, That no person shall lay, cart or spread, or cause to be laid, carted or spread, or otherwise carried into the said Common or common lands, of the said city, any dead carcase, ordure, filth, stones, or other offensive matter or substance whatever.

[5] SEC. 5. *Be it further ordained*, That no person shall shake, or otherwise cleanse any carpet on any of the common lands, or in any of the public squares or places, streets, lanes or alleys of the City, except upon the Common, and no person shall shake or otherwise cleanse any carpet upon the said Common, within ten rods of either of the malls or of either of the public paths, made under the authority of the City government across the same.

[6] SEC. 6. *Be it further ordained*, That no owner or keeper of any horse or other grazing cattle shall suffer the same to go at large, or to feed upon the Common or common lands, public squares, streets, lanes or alleys of the city. And all such horses or cattle found at large in said city, not having a keeper shall be liable to be impounded by any field driver, and detained by him until the payment of *fifty cents*, together with the cost and charges of impounding and keeping the same: *Provided*, that any inhabitant of South Boston shall be allowed to have one Cow go at large at South Boston without a keeper: *And provided further*, that no inhabitant of South Boston shall permit any Cow to him belonging, to go at large without a talley on her neck and the owner's name thereon.

[7] SEC. 7. *Be it further ordained*, That any person who shall offend against any of the provisions of this ordinance shall forfeit and pay for every offence a sum, not less than one nor more than twenty dollars, to be recovered by complaint before the Justices of the Police Court.

[8] SEC. 8. *Be it further ordained*, That "an ordinance to prevent trespasses and nuisances on the Common and common lands of the City of Boston," "an ordinance regulating the going at large of Cows and the right of pasturage on Boston Common," and all By-laws of the town or ordinances or orders of the City of Boston on these subjects be and the same hereby are repealed.

CHAPTER XV.

Constables.

ACTS OF THE LEGISLATURE.

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| <p>[1] <i>Selectmen [Mayor and Aldermen] to appoint Constables.</i></p> <p>[2] <i>Bond of Constables, person injured by breach of, to maintain actions in name of treasurer. Proviso.</i></p> <p>[3] <i>Copy of Bond to be</i></p> | <p><i>given to persons applying for the same.</i></p> <p>[4] <i>Constables not to act as attorneys.</i></p> <p>[5] <i>Penalty for so doing.</i></p> <p>[6] <i>Time of commencement of said restriction.</i></p> |
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Extract from "An act regulating the collection of taxes in the town of Boston, and providing for the appointment of Constables in the said town." [*Passed June 18, 1802.*]

[1] SEC. 1. *Be it enacted by the Senate and House of Representatives in General Court assembled and by the authority of the same, That the Selectmen of the town of Boston, be, and they are hereby empowered to appoint annually, such a number of persons as Constables in the said town, as the public service may require; and the said Constables, so appointed, shall give bonds to the Treasurer of the town of Boston, in such sums, and on such conditions, as the said Selectmen shall think proper, for the faithful performance of the duties of their office; and the Constables so appointed by the Selectmen, shall have the same powers as are by law vested in Constables chosen by the towns in this Commonwealth.*

An act for regulating the proceedings in suits upon Constable's bonds in the town of Boston. [*Passed March 1, 1815.*]

[2] SEC. 1. *Be it enacted by the Senate and House of Representatives in General Court assembled and by the authority of the same, That when the condition of any bond*

which now is, or may hereafter be given to the treasurer of the town of Boston by any constable of said town, for the faithful performance of the duties of his office, shall be broken, to the injury of any person, such person may cause a suit to be instituted upon such bond, at his own costs, but in the name of the treasurer of the town of Boston ; and the like endorsements shall be made on the writ, and the like proceedings be had thereon, to final judgment and execution, and the like writs of *scire facias*, on such judgment, as may be made and had by a creditor on administration bonds, given to any Judge of Probate : *Provided, however*, that no such suit shall be instituted by any person for his own use, until such person shall have recovered judgment against the constable, his executors or administrators, in an action brought for the malfeasance or misfeasance of the constable, or for non-payment of any moneys collected by the said constable, in that capacity, or a decree of a Judge of Probate, allowing a claim for any of the causes aforesaid, and such judgment or decree, or so much thereof as shall be unsatisfied, with the interest due thereon, shall be the proportion of the penalty for which execution shall be awarded : *Provided, however*, that this act shall not be construed to make any surety in any bond given by the constable as aforesaid, before the passing of this act, liable to any suit, which could not heretofore be legally prosecuted against him.

[3] SEC. 2. *Be it further enacted*, That it shall be the duty of the treasurer aforesaid, to deliver an attested copy of any constable's bond to any persons applying and paying for the same, and such attested copy shall be received as evidence in any case : *Provided, nevertheless*, that if in any suit, the execution of the bond shall be disputed, the court may order the treasurer to bring the original bond into court.

An act in addition to an act entitled "An act defining the general powers and duties, and regulating the office of Sheriff."

[*Passed June 15, 1822.*]

[4] SEC. 1. *Be it enacted by the Senate and House of Representatives in General Court assembled and by the authority of the same*, That no constable shall be suffered to appear in any court, or before any Justice of the Peace, as attorney to, or in behalf of any party in a suit ; nor shall such constable be allowed to draw, make, or fill up any plaint, declaration, writ or process.

[5] SEC. 2. *Be it further enacted*, That if any constable shall be guilty of a breach of this act, he shall forfeit and pay the sum of *fifty dollars*, to be recovered by action of debt, in any court proper to try the same, to be for the use of the person who may sue or prosecute therefor.

[6] SEC. 3. *Be it further enacted*, That this act shall take effect, and be in force from and after the first day of July next.

CHAPTER XVI.

Courts.

ACTS OF THE LEGISLATURE.

[1] *Municipal Court established—its terms, (altered, see post 13)—its style, (altered, see post 14)—jurisdiction, (enlarged, see post 12)—power to appoint Clerks—Clerks power to adjourn, (enlarged, see post 15.)*

[2] *Grand Jurors, increased to fifteen—to attend—their powers—Petit Jurors to be not less than fifteen—to attend, (see post 8)—Grand and Petit Juror's compensation, (see post 9.)*

[3] *Judge of the Municipal Court, his salary, (increased, see post 13)—fees of Court, service of precepts—Prisoners to be confined in Suffolk Gaol.*

[4] *Advocate to be appointed—his fees.*

[5] *Costs of Criminal prosecutions to be taxed by the Judge—Clerk to deliver copies of bills of cost—Fines to be paid over to County Treasurer.*

[6] *Act to take effect, when.*

[7] *Appeal from Municipal to Supreme Judicial Court.*

[8] *Grand Jurors to Municipal Court, &c. and Petit Jurors to Court of Sessions—towns exempted from appointing.*

[9] *Grand Jurors of Supreme Judicial Court, to attend Municipal Court—their compensation. Petit Jurors to Common Pleas Court to attend Municipal Court, (altered, see post 17)*

[10] *Appeals from Justices of the Peace to the Municipal*

Court—Supreme Court to have cognizance of crimes, &c. formerly tried by Court of Sessions, (altered, see post 12.)

[11] *Precepts from Municipal Court to run into other counties.*

[12] *Jurisdiction of Municipal Court increased to all cases not capital.*

[13] *Terms of Municipal Court increased—Judges salary, additional sum to be paid by State.*

[14] *Municipal Court—its style altered.*

[15] *Clerk's power to adjourn increased—Sheriff's duty to give notice of adjournment.*

[16] *Municipal Court to issue writs of venire for traverse jurors—their duty as to attendance.*

[17] *Repeal of law requiring jurors at the Common Pleas Court to serve in Municipal Court.*

[18] *Mayor and Aldermen to exercise powers of towns relating to selection, &c. of jurors.*

[19] *Judicial connexion between Boston and Chelsea. Jurisdiction of Court of Common Pleas.*

[20] *Police court established—its terms—powers—appeals from—Justices of not to act as attorney in.*

[21] *Returns of warrants..*

[22] *Salaries of Justices.*

[23] *Clerk of Police Court*—his appointment—duties—to exhibit accounts to Board of Accounts—Treasurer to record the same—Clerks bonds—may employ assistants—their compensation, (see post 36)

[24] *Justices court*—its terms—jurisdiction—duties—to discharge poor prisoners.

[25] *Pending suits.*

[26] *Court of Common Pleas* to have powers of Court Sessions relating to streets, &c.—transfer of suits.

[27] *Board of accounts established*—its powers and duties.

[28] *Board of accounts* to inspect prisons and report to Mayor and Aldermen—its compensation.

[29] *Court of Sessions*—powers transferred to Mayor and Aldermen.

[30] *Treasurer of the City* to be Treasurer of the County.

[31] *Taxes of City and*

County may be assessed separately or not.

[32] *Auditors and Clerks of the Treasury*, appointment of.

[33] *Places for holding Courts* to be provided by Mayor and Aldermen.

[34] *Act, when to take effect*—*Repealing clause.*

[35] *Act, to be accepted by inhabitants.*

[36] *Clerk of Police Court* to be Clerk of Justices Court—tests of writs, &c.—Clerks duties.

[37] *Repealing clause.*

[38] *County Attorney*—his salary, (see post 40.)

[39] *Fees to be accounted for.*

[40] *Attorney of the Commonwealth*—his salary.

[41] *To account for all fees received.*

[42] *Police Court* to have concurrent jurisdiction of cases under the license law.

[43] *Repealing clause.*

ORDINANCE OF THE CITY.

[44] *Penalty of bond of Clerk of Police Court*—form to be prescribed by Mayor and Aldermen.

[45] *Bond to be renewed annually.*

An act to establish a Municipal Court in the town of Boston.

[Passed March 4, 1800.]

WHEREAS, from the peculiar situation and circumstances of the town of Boston, as a metropolis and great seaport, the usual mode of enforcing the laws, and administering justice in criminal cases, is attended with great delays and burthensome expenses ;

[1] SECT. 1. *Be it therefore enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, That there shall be holden, within, and for the town of Boston, on the first Monday of every month, by such learned, able, and discreet person as the Governor shall appoint and commission, pursuant to the constitu-*

tion, a court of justice, by the name of the Municipal Court for the town of Boston; that the same court shall have power to adjourn from day to day, and shall have cognizance of all crimes and offences committed within the town of Boston, which are now cognizable in the Court of General Sessions of the peace, and cognizance of all crimes and offences against the By-laws of the said town; of frauds, deceits, monopolies, forestalling, regrating, thefts, and nuisances. And the said court shall have power to impose and administer all oaths necessary to the legal conviction and punishment of offenders; and to punish, at the reasonable discretion of the court, and in like manner as other courts may lawfully do, all contempts committed against the authority of the same. And the same court shall have power to appoint and remove its own clerks, who, when appointed, shall take such oaths, as are by law provided to be taken by the clerks of other courts. And if it shall so happen that the judge of said Court shall be unable to attend, from sickness or any other cause, on any day upon which said court shall be by law to be held, or to which said court shall stand adjourned, it shall and may be lawful for the clerk of said court to adjourn the same to the next stated term, by proclamation.

[2] SEC. 2. *And be it further enacted, by the authority aforesaid,* That the grand jurors annually chosen by the town of Boston, to serve in the Court of General Sessions of the peace, shall be increased to fifteen within said town, and shall be summoned to attend said Municipal Court, with all the powers and authority vested in grand jurors by the constitution and laws of this Commonwealth, and within the jurisdiction of said Municipal Court; and that the petit jurors who shall hereafter be appointed in the town of Boston, and returned to serve in the Court of General Sessions of the peace, shall not be less than fifteen in number, whose duty it shall be to attend the said Municipal Court, and to serve in all cases where by law, trial by jury is required, and until another petit jury is appointed for the Court of Sessions; and the said petit jurors shall be summoned accordingly. And the said grand jurors and petit jurors, shall receive for their services in said Municipal Court, the like compensation and in like manner, as they by law are entitled to at the Court of Sessions.

[3] SECT. 3. *And be it further enacted,* That the Judge of said Municipal Court, shall receive in full compensation for the discharge of the duties of his office, a stated annual salary, which shall be paid by said town of Boston, and which shall be voted and established, at any meeting of the inhabitants legally assembled for that purpose, and which shall not be diminished, during his continuance in office. And all fees taxed

in said court, for the clerk, witnesses, and officers thereof, and for all processes issuing from said court, and other court charges, shall be the same as by law are allowed in the Court of General Sessions of the peace in similar cases. And the precepts of the said Municipal Court, shall be directed to, and served by, the sheriff of the County of Suffolk, by his deputies residing within the town of Boston, and by the constables thereof respectively; and all prisoners who shall be arrested and ordered to be committed, by any sentence or judgment of said Municipal Court, or who shall be ordered to be committed, either by the judge of said court, or by any justice of the peace, upon any complaint, to take trial at the said court, shall and may be committed to the gaol of the said County of Suffolk, and there held until discharged by order of said court, or by order of the Supreme Judicial Court of this Commonwealth; and the keeper of the gaol for the said County of Suffolk, is hereby directed and required to take the custody of the said prisoners accordingly.

[4] SEC. 4. *And be it further enacted*, That the said town shall be allowed to choose, annually, some person learned in the law, to appear as an advocate in the same court, and to conduct the prosecutions therein; and the said town may allow him such compensation as to them shall appear reasonable; and the said judge shall tax such fees, for said advocate, in the cases that shall be tried by said court, as the attorney general for the Commonwealth, or the attorney for the county, is or shall be allowed in the Court of General Sessions of the peace; the said fees, when received by the advocate of said court, shall be accounted for to the town of Boston; *Provided nevertheless*, that all criminal prosecutions in the said court, shall be under the management of the attorney or solicitor general, when either of them shall be present, the appointment of such advocate by the town notwithstanding.

[5] SEC. 5. *Be it further enacted*, That all costs which may arise in any criminal prosecution in said Municipal Court, the judge of said court is hereby authorized and empowered to examine and tax, not exceeding in any case, the fees stated by law, and such costs so taxed shall be paid out of the treasury of the County of Suffolk. And the clerk of said Municipal Court shall attest and deliver to the county treasurer, copies of all bills of costs allowed by the court, and certificates of all fines and forfeitures imposed and accruing to the county aforesaid, or to the Commonwealth, either before the rising of said Court, or as soon after as may be. And the clerk of said Municipal Court, and all sheriffs, deputy sheriffs, coroners, and constables, who may hereafter receive any fines, forfeitures, or

bills of costs, in pursuance of the judgment or sentence of said court, which shall accrue either to the county aforesaid, or the Commonwealth, shall forthwith pay the same to the treasurer of said county ; and upon neglect thereof for the space of ten days after such receipt, he shall forfeit and pay double the amount of such fine, forfeiture, or bill of cost, to such county treasurer, who is hereby empowered and directed to sue for the same ; to be recovered, with costs, by action of debt, in the Court of Common Pleas in the same county ; one third of said penalty to the use of said treasurer, and the other two thirds to the use of said County of Suffolk.

[6] SEC. 6. *And be it further enacted, by the authority aforesaid,* That this act shall take effect, from and after the first day of May next ; and the first Municipal Court, shall be held on the first Monday of June next ensuing.

[7] SEC. 7. *Be it further enacted,* That an appeal shall be had from all sentences and judgments of the said Municipal Court, to the Supreme Judicial Court, in the same manner that appeals are had from the Court of General Sessions of the peace.

An act for relieving the County of Suffolk, in the choice and service of Jurors, and for further regulating the administration of justice therein. [*Passed Feb. 17, 1801.*]

Whereas the number of grand jurors now by law to be chosen by the towns in the County of Suffolk is unnecessarily inconvenient and burthensome ;

[8] SEC. 1. *Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That from and after the passing of this act, the several towns in the said county be, and they are hereby exempted from appointing annual Grand Jurors to serve at the Court of General Sessions of the Peace to be held therein, or at the Municipal Court for the town of Boston, and from appointing petit Jurors to serve at the said Court of Sessions, as heretofore by law required ; and such Jurors as may have been before appointed, and shall then be liable to serve as aforesaid, shall be discharged from the said services from and after the last day of April next.

[9] SEC. 2. *Be it further enacted by the authority aforesaid,* That such Jurors as are now appointed, or may hereafter be appointed by the town of Boston to serve on the Grand Jury, at the Supreme Judicial Court, within

and for the said county of Suffolk, shall be summoned and shall attend the Municipal Court for the town of Boston, by law to be holden within and for the said town, from and after the said last day of April next, until other Grand Jurors are appointed, and returned to serve at the Supreme Judicial Court in the county aforesaid, and are hereby vested with all the powers given by the constitution and laws of this Commonwealth to Grand Jurors, touching all matters within the Jurisdiction of the said Municipal Court. [*And that the petit Jurors who are or shall be hereafter appointed in the town of Boston, to serve in the Court of Common Pleas in said County, and who shall not be less than fifteen in number, shall also be appointed for and returned to said Municipal Court. And it shall be their duty to attend the said Municipal Court, and to serve in all causes where by law trial by jury may be required, and until another petit jury be appointed for the said Court of Common Pleas; and the said petit Jurors shall be summoned accordingly.*] [Repealed June 15, 1822.] And the said grand Jurors and petit Jurors shall receive for their services in said Municipal Court, the like compensation and in like manner, as such Jurors are now by law entitled to, at the Court of Sessions.

[10] SEC. 3. *Be it further enacted by the authority aforesaid, [That the Supreme Judicial Court to be by law holden within and for the said County of Suffolk, shall have cognizance and Jurisdiction of all crimes and other matters heretofore cognizable by the said Court of Sessions, and triable by a Jury, the causes of which may arise in any other part of the County of Suffolk than the town of Boston.] [Repealed Feb. 27, 1813.]* And that all appeals from the judgments of Justices of the Peace in criminal matters happening within the said town of Boston, and which might heretofore have been made to the said Court of general Sessions of the peace, shall be made to, and be cognizable by the said Municipal Court.

[11] SEC. 4. *Be it further enacted,* That the precepts of the said Municipal Court may be directed to all such officers, and run into any Counties within this Commonwealth, that precepts from the said Court of General Sessions of the peace might by law, and that the grand and petit Jurors, appointed and summoned to attend at the said Municipal Court, shall be subject to the same penalties for non attendance, as such Jurors are now respectively subject to by law, for not attending at the Court of General Sessions of the peace.

SEC. 5. *Be it further enacted, That the terms now by law established for holding the said Municipal Court on the first Mondays of March and September, annually, be and hereby are abolished.*] [Repealed Feb. 26, 1814.]

An act to enlarge the Jurisdiction of the Municipal Court in the town of Boston. [*Passed Feb. 27, 1813.*]

[12] *Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That the Municipal Court in the town of Boston, shall have original Jurisdiction, concurrent with the Supreme Judicial Court, of all crimes and offences arising or happening within the County of Suffolk, not capital; and the said Municipal Court shall and may exercise such Jurisdiction, any law, usage, or custom to the contrary notwithstanding, saving, to any party the right of appeal to the said Supreme Judicial Court, as is now provided by law in other cases.

An act to increase the number of terms of the Municipal Court of the town of Boston, and to compensate the Judge thereof. [*Passed Feb. 26, 1814.*]

[13] *Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same,* That in future, the said Municipal Court shall be holden the first Monday of every month, with power to adjourn as originally provided for, in the act of March the fourth, in the year of our Lord one thousand eight hundred, which established said Court: and that in addition to the salary allowed the Judge of said Court by the town of Boston, there shall be paid to him out of the Treasury of this Commonwealth, every quarter of a year, the sum of one hundred and eighty seven dollars and fifty cents, the first quarter to be considered as having commenced the first day of January last; and said additional allowance to be continued, so long as the act of the twenty seventh of February, in the year of our Lord one thousand eight hundred and thirteen, enlarging the Jurisdiction of said Court, shall remain unrepealed, and the said Judge shall be obliged by law to perform the duties therein required.

An act respecting the Municipal Court of the city of Boston, and regulating the selections, the empannelling and services of Grand, Traverse and Petit Jurors.

[*Passed June 15, 1822.*]

[14] SEC. 1. *Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority*

of the same, That the Court of Criminal Jurisdiction established by an act passed on the fourth day of March in the year of our Lord one thousand eight hundred, and styled the Municipal Court for the town of Boston, the jurisdiction of which was afterwards extended to the County of Suffolk, shall hereafter be known and styled "The Municipal Court of the City of Boston," with all the jurisdiction, power and authority vested in the said Court.

[15] SEC. 2. *Be it further enacted*, That if it shall so happen, that the Judge of the said court shall be unable to attend from sickness, or any other cause, on any day upon which said court shall be by law to be held, or to which said court shall stand adjourned, it shall and may be lawful for the clerk of said court to adjourn the same, either to the next stated term, or to such earlier time, and to such a place, as the public convenience may, in his judgment, require ; and it shall be the duty of the Sheriff in attendance, or his deputies, to give notice of such adjournment by proclamation, and by posting or publishing notice thereof, or in such manner as the said court may, by any order or rule thereof direct or appoint.

[16] SEC. 3. *Be it further enacted*, That the said Court shall have power and authority to issue writs of *venire facias*, for the return of traverse Jurors from the City of Boston, conformable to law ; whose duty it shall be to attend the said Municipal Court, and to serve in all cases where by law, trial by Jury is required therein ; and the said traverse Jurors, who may be drawn and returned for the respective terms of said Court held in January, April, July and October, in each year, shall be held and required to serve as such, at the said terms respectively, and also at the two terms next succeeding the said respective terms.

[17] SEC. 4. *Be it further enacted*, That so much of the laws heretofore made, as required the traverse Jurors drawn and returned to the Court of Common Pleas for the County of Suffolk, to serve at any term of the said Municipal Court be, and the same hereby are repealed.

[18] SEC. 5. *Be it further enacted*, That all the duties required of and powers given to towns by the several laws "regulating the selections, the empannelling, and the services of the Grand, Traverse, and petit Jurors," shall be exercised by the Mayor and Aldermen of the City of Boston.

An Act to regulate the Administration of Justice within the County of Suffolk, and for other purposes.

[*Passed Feb. 23, 1822.*]

[19] SEC. 1. *Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same,* That the town of Chelsea shall continue to be a part of the County of Suffolk, for all purposes relating to the administration of justice, as though this act had not been passed; excepting that the town of Chelsea shall not be liable to taxation for any county purposes, until the Legislature shall otherwise order; and excepting also, as herein after provided, concerning the jurisdiction of Justices of the Peace. That the Court of Common Pleas in the County of Suffolk, shall have jurisdiction in all matters and things, which, in relation to the town of Chelsea, or the inhabitants thereof, were cognizable by the Court of Sessions, in the County of Suffolk, before the passing of this act.

[20] SEC. 2. *Be it further enacted,* That there shall be, and hereby is established within and for the City of Boston, a Police Court, to consist of three learned, able and discreet persons, to be appointed and commissioned by the Governor, pursuant to the constitution, and the senior justice shall preside in said court; and a court shall be held daily, at nine o'clock in the forenoon, and at three o'clock in the afternoon, by some one or more of said justices, and at any other times when necessary, to take cognizance of all crimes, offences, and misdemeanors, whereof Justices of the Peace may take cognizance by law, and of all offences which may be cognizable by one or more of said Justices, according to the by-laws, rules, and regulations which may be established by the proper authority of the City of Boston. And the Court hereby constituted, shall hear and determine all suits, complaints, and prosecutions, in like manner as is by law provided for the exercise of the powers and authority which are, or may be vested in Justices of the Peace, and do all such acts necessary to, or consistent with, such powers and authority, reserving to any party aggrieved an appeal, in like manner as appeals may be claimed in all other cases; *Provided, always,* that no one of said Justices shall be of counsel, or attorney, to any party, in any matter or thing whatsoever, which may be pending before said Justices, or either of them.

[21] SEC. 3. *Be it further enacted,* That all warrants issued by said Justices or either of them, or by any Justice of the Peace within the City of Boston, shall be made returnable, and be returned, before the said Police Court: *Provided, always,* that no process returnable be-

fore a Justice of the Peace residing in the said town of Chelsea, except for causes of complaint arising in Chelsea, shall be served within the City of Boston. And if any warrant shall be issued by any Justice of the Peace, who is not one of the Justices of the said Police Court, the lawful fees payable therefor shall not be paid nor allowed, unless, on the examination or hearing before said Police Court, it shall appear to said Court, that there was just and reasonable cause for issuing said warrant; in which case, such fees, costs, and charges, shall be allowed and taxed, in like manner, as though said warrant had been issued by a Justice of the Peace, according to the law now in force.

[22] SEC. 4. *Be it further enacted*, That the said Justices of said Court shall severally receive, in full compensation for all services herein before assigned to them, such salary, annually, payable out of the Treasury of the City of Boston, as the City Council shall fix and determine, payable quarter yearly;—the said annual salary shall include, and be payment in full, not only for the services rendered by the said Justices, in all prosecutions, suits, and complaints, but also in full for all other services required of them by this act, excepting when acting as members of the Board of Accounts, as herein after provided for.

[23] SEC. 5. *Be it further enacted*, That there shall be a Clerk of said Police Court, to be appointed and commissioned by the Governor, with the advice of Council, and removable by the same authority, whose duty it shall be to attend every Court held by the said Justices of the said Police Court, or either of them, and to record all proceedings therein had, and to make out all warrants and processes, which the said Justices, or either of them may order; to tax all bills of cost, and receive fines, penalties, and costs; and to exhibit, quarter yearly, to the Board of Accounts, herein after established, a particular account of all sums of money by him received as such Clerk, and shall pay over all sums by him so received, to the City Treasurer, immediately after his accounts shall have been examined and certified by said Board of Accounts; and the accounts so exhibited, from time to time, shall be recorded by the City Treasurer, in a book to be by him kept for that purpose, when the same, with the certificate of allowance thereof, by said board, shall be exhibited to him by said Clerk, and the said accounts shall be filed and safely kept by said Treasurer. That the said clerk shall be sworn to the faithful performance of his duty; and shall give bond, with one or more surety or sureties, to the acceptance of the said City Treasurer, for the faithful performance of the duties of his office, in such penalty as the City Council shall determine; and

the said clerk shall receive from the city Treasury such annual compensation, payable quarter yearly, as the City Council shall fix and determine, and no other compensation whatever. That the said clerk shall not advise with, nor be of counsel, nor attorney, to any party in any suit, complaint or process whatsoever, pending, or to be brought before said Court; and shall be removable for any act by him done in contravention of this provision. The said clerk is hereby authorized and empowered, with the consent and approbation of the Justices of said Court, to employ, if it be found necessary so to do, one or more assistant clerks; but the said clerk shall be responsible for all persons by him so employed; and the said City Council may allow to such assistant clerk or clerks a reasonable and just compensation, payable out of the City Treasury, on the certificate of said Board of Accounts, that such assistant clerk or clerks were necessarily employed: *Provided, always*, that the said clerk of said Police Court shall take all lawful fees, for copies which he may make out and certify, at the request of any party or person, and shall endorse thereon the amount of said fees, and account for all fees by him so received, to the City Treasurer.

[24] SEC. 6. *Be it further enacted*, That a Court shall be held by one or more of said Justices on two several days in each week, and as much oftener as may be necessary, to be called and styled the Justices' Court for the County of Suffolk; which Court shall have original, exclusive jurisdiction and cognizance of all civil suits and actions, which before, and until the passing of this act, might by law be heard, tried and determined before any Justice of the Peace, within and for the County of Suffolk; and an appeal shall be allowed from all judgments in said Justices' Court, in like manner as appeals are now allowed by law, from judgments of Justices of the Peace in civil actions in the said County of Suffolk. All writs, and summons, and processes, may be tested by either of the Justices of said Court; [*and it shall be the duty of said Justices to keep a true and faithful account of all fees respectively received by them in civil suits and actions, and to render a just and true account thereof, on oath, quarter yearly, to the Board of Accounts; and all sums of money, by them so received, shall be accounted for, and paid into the City Treasury: and it shall be the duty of such Justice to make a true and faithful record, according to law of all his proceedings in every trial and process of a civil nature, which may be had before him.*] [*Repealed June 15, 1822.*] That all the Justices of said Court shall, from time to time, assemble, to establish all necessary rules for the orderly and uniform conducting of the business of said Courts, both of civil and criminal juris-

diction, and to agree upon the manner and course, in which they shall respectively perform the duties by this act assigned to them, so as to insure a constant, prompt and punctual performance thereof, and to equalize the same, as near as may be, among themselves. And the said Justices, when assembled, shall have power to discharge from prison any person or persons, who may be there held, for no other cause than the non-payment of fine and costs, if it shall appear to said Justices that such person or persons are poor and unable to pay the same : *Provided, always,* that when such person or persons are held under sentence of the Municipal Court, that the assent of the Judge of that Court, that such person or persons shall be discharged, shall be first given.

[25] SEC. 7. *Be it further enacted,* That all suits, actions and prosecutions, which shall be instituted, and which shall be pending before any Justice of the Peace, within the County of Suffolk, at the time when the said Police Court, and the said Court of the Justices of the County of Suffolk shall have been organized, and shall have been duly qualified to perform the duties hereby assigned to said Courts, shall be heard and determined as though this act had not been passed.

[26] SEC. 8. *Be it further enacted,* That the Court of Common Pleas, holden within and for the County of Suffolk, shall have, exercise, and perform, all the powers and duties, which, before the passing of this act, were by law had, exercised, and performed, by the Court of Sessions in said county, with regard to streets and ways, and with regard to all other suits, processes, and proceedings whatsoever, in which a trial by jury may be had or required ;—and such trial shall be had at the bar of said Court of Common Pleas, in the same manner as other civil causes are there tried, by the Jurors there returned and empannelled ; and the Jury, to whom such cause may be committed, shall be taken to view the place in question, if either party shall request it. And all suits and processes, pending in said Court of Sessions, at the passing of this act, whereof cognizance and jurisdiction is hereby given to the said Court of Common Pleas, shall be transferred to and heard and determined in the said Court of Common Pleas, as though the same had been originated or instituted in said Court, in pursuance of this act.

[27] SEC. 9. *Be it further enacted,* That the Judge of Probate for the County of Suffolk, and the Judge of the Municipal Court of the Town or City of Boston, and the said Justices of the Police Court, shall be, and they hereby are constituted a Board of Accounts ; and the said board shall assemble quarter yearly, and as much oftener as may be found ne-

cessary ; and when so assembled, shall have power, and it shall be their duty, to adjust, liquidate, examine, and allow, all bills of costs, accounts and charges, which may be made, or which may arise in the course of proceedings in the said Police Court and in the Municipal Court, and in the maintenance and keeping of the prisoners in the gaol of the County of Suffolk, and of all other charges and expenses in keeping said gaol, and of all other places of confinement and punishment, within the City of Boston ; and the said Board of Accounts shall certify, that said accounts, charges, and expenses, have been examined and allowed by them—and the certificate of such examination and allowance shall be endorsed on the accounts exhibited to said board, and shall be addressed to the public officer by whom such charges, fees, and expenses, may be payable by law.

[28] SEC. 10. *Be it further enacted*, That the said Judges and Justices are empowered, and it is hereby made their duty, to assemble quarter yearly, and proceed to inspect the gaol in the County of Suffolk, and all other places of confinement and punishment for crimes, offences, or non-payment of fines or debts, and to make report of their proceedings to the Mayor and Aldermen of the City of Boston ; and therein to state all grievances, mismanagement, and negligences, which they may find to exist ; and therein to suggest such changes and improvements, as to them may seem wise and expedient. Any three or more of said Justices and Judges shall constitute a quorum for the performance of the duties hereby assigned to them. And the said Judges and Justices shall be entitled to have and receive, out of the City Treasury, the sum of three dollars respectively, for each and every day which may be by them devoted to the performance of the duties hereby assigned to them.

[29] SEC. 11. *Be it further enacted*, That the Court of Sessions, within and for the County of Suffolk, be, and the same is hereby abolished : And the Mayor and Aldermen of the City of Boston, for the time being, shall have all the powers, and perform all the duties, which before and until the passing of this act, were had and performed by the Court of Sessions, excepting as otherwise provided for by this act, or any other act relating to the transfer of the powers heretofore vested in said Court of Sessions.

[30] SEC. 12. *Be it further enacted*, That the Treasurer of the City of Boston shall be, *ex officio*, Treasurer of the County of Suffolk, and shall keep all such books as may be proper and necessary as Treasurer of the City of Boston and as Treasurer of the County.

[31] SEC. 13. *Be it further enacted*, That all taxes which may be assessed for city or county purposes, within the City of Boston, may be assessed separately, as county taxes and as city taxes, or under the denomination of city taxes only, as the city government may see fit, from time to time, to order and direct.

[32] SEC. 14. *Be it further enacted*, That the City Government of the City of Boston shall have power and authority to provide for the appointment and compensation of one or more Auditors, and of one or more clerks in the Treasury Department, as said government may find to be necessary or convenient.

[33] SEC. 15. *Be it further enacted*, That it shall be the duty of the Mayor and Aldermen of the City of Boston to provide convenient and proper places for the holding of the courts by this act established.

[34] SEC. 16. *Be it further enacted*, That this act shall go into operation on and after the first day of June next ; and that all acts and parts of acts, which are repugnant to the provisions of this act, be, and the same are hereby repealed.

[35] SEC. 17. *Be it further enacted*, That this act shall be of no force or effect, unless a certain act, passed at the present session, entitled "an act establishing the City of Boston," shall be accepted by the inhabitants of the town of Boston, pursuant to the provision therein made. And in case said act shall be so accepted, and that fact certified to His Excellency the Governor by the Selectmen of the town of Boston, His Excellency is hereby authorized to announce the same by proclamation ; whereupon this act shall be in full force, and go into operation at the time herein before limited.

An act in addition to an act entitled "An act to regulate the administration of Justice within the County of Suffolk, and for other purposes." [*Passed June 15, 1822.*]

[36] SEC. 1. *Be it enacted by the Senate and House of Representatives in General Court assembled and by the authority of the same*, That the Clerk of the Police Court within and for the City of Boston, shall also be Clerk of the Justices' Court of the County of Suffolk. All writs, summonses, and processes issuing from said last mentioned court, may be tested by either of the Justices thereof, not a party thereto, and shall be signed by the clerk. And said clerk, or his assistant,

shall attend all sessions of said Justices' Court, and record all proceedings therein had. And said clerk shall make out all writs and processes which the said Justices, or either of them may order, and tax all bills of costs. And said clerk shall receive and keep a true and faithful account of all fees taxable by law, and payable for blanks, fees of court, and copies in civil suits and actions, and render a true and just account thereof, quarter yearly, to the Board of Accounts; and all sums of money by him so received, shall be accounted for and paid into the City Treasury. And it shall be the duty of said clerk to make a true and faithful record, according to law, of the proceedings in every trial and process of a civil nature, which may be had before said Justices' Court. And said quarterly account of said clerk shall be filed and recorded by the City Treasurer, as is provided in the fifth section of the act, providing for the administration of Justice within the County of Suffolk and for other purposes, to which this act is in addition. And said clerk shall be sworn, give bond, and receive a compensation, as is provided in the fifth section of the act aforesaid.

[37] SEC. 2. *Be it further enacted*, That so much of the act aforesaid, as is inconsistent herewith, be, and the same hereby is repealed.

An act to provide a Salary for the County Attorney for the County of Suffolk. [*Passed Feb. 23, 1822.*]

[38] SEC. 1. *Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same*, That from and after the first day of April next, there shall be allowed and paid out of the treasury of the County of Suffolk, annually, the sum of one thousand dollars, to the County Attorney, for said county, in full compensation for his services, and in lieu of all fees and charges heretofore received by him.

[39] SEC. 2. *Be it further enacted*, That all fees, in all indictments, informations or other prosecutions, or suits, criminal or civil, which shall, from and after the said first day of April next, be taxed or received by the County Attorney for said County of Suffolk, shall be paid over to the Treasurer of said County of Suffolk, and the County Attorney for said county shall, from and after the said first day of April, render a quarterly account to the said Treasurer, of all fees received by

him, and also a further account of all fees taxable by law, for services performed by him, and which have not been received by him.

An act in addition to an act, to provide a Salary for the County Attorney for the County of Suffolk.

[*Passed Feb. 8, 1823.*]

[40] SEC. 1. *Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same,* That the sum of twelve hundred dollars, be established as the annual salary of the Attorney of the Commonwealth, within and for the County of Suffolk, to be paid out of the Treasury of said county, in quarterly payments; and to be in full compensation for his services; and in lieu of all fees and charges heretofore received by him, and also for services for administering oaths to witnesses, as commissioner, or otherwise, inclusive.

[41] SEC. 2. *Be it further enacted,* That said Attorney shall account to the treasurer of said county for all fees received by him; and the amount shall be deducted from his salary; or if they exceed the amount thereof, the balance shall be paid by him into the County Treasury; and in the settlement of the accounts for expenses in criminal proceedings between the Commonwealth and said county, there shall no more be charged to the Commonwealth, for the services of said Attorney, than his salary as aforesaid.

An act concerning the Jurisdiction of the Police Court in the City of Boston. [*Passed June 5, 1830.*]

[42] SEC. 1. *Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same,* That the Police Court of the City of Boston shall have concurrent jurisdiction with the Municipal Court of said city, in all cases, (excepting where the fine, penalty or forfeiture exceeds twenty dollars,) arising under an act entitled "an act in addition to an act entitled an act for the due regulation of licensed houses" passed on the fourteenth day of December, in the year of our Lord one thousand eight hundred and sixteen, and under the act to which that is in addition, the

prosecution in such cases to be upon complaint or information, as in other cases in said Police Court, saving always the right of appeal as in other cases, to the said Municipal Court ; any thing to the contrary in said acts notwithstanding.

[43] SEC. 2. *Be it further enacted*, That an act entitled " An Act concerning the Jurisdiction of the Police Court in the City of Boston," passed on the twelfth day of March in the year of our Lord one thousand eight hundred and thirty, be, and the same is hereby repealed, except so far as respects any prosecutions and proceedings heretofore instituted and now pending under the same.

ORDINANCE OF THE CITY.

An ordinance prescribing the penalty of the Bond to be given by the Clerk of the Police Court, and Justices' Court.

[*Passed June 17, 1822.*]

[44] SEC. 1. *Be it ordained by the Mayor, Aldermen, and Common Council of the City of Boston, in City Council assembled*, That the Penalty of the bond to be given by the Clerk of the Police Court, and Justices' Court, shall be *five thousand dollars* ; that the form be prescribed by the Mayor, with the approbation of the board of Aldermen ; that the City Treasurer have the custody of said bond, and be accountable therefor.

[45] SEC. 2. *Be it further ordered*, That the bond which is to be taken as aforesaid, shall be in force for one year from the date thereof, and until a new bond is given, and that the bond of said Clerk shall be renewed annually, in manner as aforesaid.

CHAPTER XVII.

Common Criers.

ORDINANCE OF THE CITY.

[1] <i>Criers to be licensed— to keep list of things cried—not to cry profane matters, &c.— penalty.</i>	}	[2] <i>Mayor and Aldermen to grant licenses—to revoke the same.</i>
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An ordinance to regulate Common Criers.

[*Passed Oct. 9, 1826.*]

[1] SEC. 1. *Be it ordained by the Mayor, Aldermen, and Common Council of the City of Boston, in City Council assembled,* That no person whatever shall presume to become a Common Crier within the City of Boston, or to cry any sort of goods, wares or merchandize, lost or found, stolen goods, strays or public sales, in any of the streets, squares, lanes, or market places within the city, unless the person so presuming to be a common crier, shall be licensed therefor by the Mayor and Aldermen; and every person so licensed, shall keep a true and perfect list of all the matters and things by him so cried, and the names of the persons by whom he was employed, and ordered to cry the same; which list shall be open, and subject to the inspection of the Mayor and Aldermen, whenever they shall demand the same; and no common crier shall publish or cry any abusive, libellous, profane, or obscene matter or thing whatsoever. And if any common crier shall be guilty of a breach of this ordinance, or any part thereof, he shall forfeit and pay, for each offence, a sum not less than one dollar, nor more than twenty dollars.

[2] SEC. 2. *Be it further ordained,* That the Mayor and Aldermen of said city, for the time being, may from time to time grant licenses to such person or persons, as shall produce to them satisfactory evidence of his or their good character, to be common criers in this city, and such license shall continue in force until the first day of May, after the date thereof, unless sooner revoked by the Mayor and Aldermen, (which they have authority to do,) and no longer.

CHAPTER XVIII.

Deeds. Leases, &c.

ORDINANCE OF THE CITY.

[1] Mayor authorized to execute deeds, &c.	to	discharge and assign mortgages.
[2] Mayor authorized to		[3] Repealing clause.

An ordinance providing for the execution of deeds and leases and discharge of mortgages on behalf of the City.

[Passed Nov. 18, 1833.]

[1] SEC. 1. *Be it ordained by the Mayor, Aldermen, and Common Council of the City of Boston, in City Council assembled,* That the Mayor of the City be, and he hereby is authorized and empowered to affix the Common Seal of the City unto, and to sign, seal, execute and deliver, in behalf of the City, all deeds and leases of lands sold or leased by the City, and of all deeds, agreements, indentures, or assurances, made and entered into by order of the City Council.

[2] SEC. 2. *Be it further ordained,* That whenever any person, having lawful authority to redeem any estate mortgaged to the City, shall make application to the Mayor for such purpose, the Mayor shall have power on the payment of the sum of money due, by said mortgage made to the Treasurer of the City, to discharge, release, or assign the same without liability or recourse to the City, the assent of the Board of Aldermen thereto being first had and obtained, and to execute in behalf of the City, any and all legal instruments that may be necessary for this purpose.

[3] SEC. 3. *Be it further ordained,* That all By-laws of the Town and ordinances and orders of the City of Boston, on the subjects of this ordinance, be and the same are hereby repealed.

CHAPTER XIX.

Dogs.

ACT OF THE LEGISLATURE.

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| <p>[1] <i>City Council authorized to make regulations concerning dogs, and to grant licenses.</i></p> <p>[2] <i>Limitation of tax for</i></p> | <p><i>licenses—by-laws not to extend to dogs owned out of the city, &c.—appropriation of penalty.</i></p> |
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ORDINANCE OF THE CITY.

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| <p>[3] <i>No dog to go at large without license and collar—City Clerk to grant license and keep a record.</i></p> <p>[4] <i>Licenses, how long to endure—who to be liable for unlicensed dogs.</i></p> <p>[5] <i>Dogs disturbing the quiet of the City to be removed—penalty for not removing.</i></p> | <p>[6] <i>City Marshal to destroy dogs.</i></p> <p>[7] <i>Ordinance not to apply to dogs owned out of the city—exception as to the duty of City Marshal to destroy all dogs pursuant to act of 1813.</i></p> <p>[8] <i>Repealing clause.</i></p> |
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An act authorizing the City of Boston, and towns in this Commonwealth to make by-laws restraining Dogs going at large.

[*Passed Feb. 26, 1825.*]

[1] SEC. 1. *Be it enacted by the Senate and House of Representatives in General Court assembled and by the authority of the same,* That the City Council of the City of Boston, and the inhabitants of any town in this Commonwealth, at any legal meeting thereof, be, and they hereby are authorized and empowered, to make any such by-laws and regulations concerning the licensing, regulating, and restraining of dogs going at large, as they may deem proper and expedient; with power to affix any penalty for the breach thereof, not exceeding ten dollars; to be recovered by complaint before the Police Court of the City of Boston, or any Justice of the Peace in the county where such town shall be situated; and to be paid into the city or town treasury for the use of said city, or such town, as shall pass any such by-law.

2] SEC. 2. *Be it further enacted,* That no person shall be obliged to pay more than two dollars annually, for a license

for his or her dog to go at large, subject to any by-law as aforesaid, and no by-law of said city, shall extend to any dog owned or kept in any town, and no by-law of any town shall extend to any dog owned or kept in any city or other town; and all money received for licenses as aforesaid, shall be paid into the Treasury of the city or town where such license is given, for the use of such city, or town, any laws of this Commonwealth to the contrary of this act notwithstanding.

An ordinance restraining the going at large of Dogs within the City of Boston. [*Passed Dec 26, 1825.*]

3] SEC. 1. *Be it ordained by the Mayor, Aldermen and Common Council of the City of Boston, in City Council assembled,* That from and after the thirty-first day of January next, no dog shall be permitted to go at large or loose, in any street, lane, alley, or court, nor any uninclosed or public place in this city, until the owner or keeper of such dog, or the head of the family or the keeper of the house where such dog is kept or harboured, shall have paid to the City Clerk, two dollars for a license for such dog to go at large, nor unless he shall also cause a collar to be constantly worn by such dog, having the christian and surname of the owner thereof, legibly written, stamped, or engraved thereon. And it shall be the duty of said clerk, to grant a license to any citizen for his or her dog to run at large upon payment of such sum, and he shall keep a record of the names of all persons to whom such licenses shall be by him granted.

[4] SEC. 2. *Be it further ordained,* That the licenses which have been or shall be issued as aforesaid, shall endure and be in force until the first day of February, next after the time of issuing the same and no longer; but they may and shall be at that time renewed, and thereafter annually, on payment to the City Clerk, the like sum of two dollars, for each renewal; and in case any dog shall be found loose, or going at large as aforesaid, contrary to the provisions of this ordinance, the owner or keeper thereof, or the head of the family, or keeper of the house where such dog is kept or harboured, shall forfeit and pay a sum not exceeding ten dollars.

[5] SEC. 3. *Be it further ordained,* That on complaint being made to the Mayor, of any dog within this city which shall, by barking, biting, howling, or in any other way or manner disturb the quiet of any person or persons whomsoever, the

Mayor on such complaint shall issue notice thereof to the person keeping, or permitting such dog to be kept, or to the owner thereof; and in case such person or owner shall, for the space of three days after such notice, neglect to cause such dog to be removed and kept beyond the limits of the city, or to be destroyed, he shall forfeit and pay a sum not exceeding one dollar for every day which shall elapse until such dog be removed or destroyed as aforesaid: *Provided*, that the Justice before whom such complaint shall be heard and tried, shall be satisfied that such dog had in manner aforesaid disturbed the quiet of any person or persons in the said city.

[6] SEC. 4. *Be it further ordained*, That if any person, after being convicted under the provision of the third section of this ordinance, shall still neglect or refuse to destroy his dog, on being ordered so to do, or if any dog, of which no owner or keeper shall be discovered, or whose owner or keeper shall refuse or neglect to take out a license for him, shall be found going at large contrary to the provisions of this ordinance, it shall be the duty of the City Marshal to cause such dog or dogs to be destroyed.

[7] SEC. 5. *Be it further ordained*, That nothing in this ordinance contained shall be applied to any dog owned and usually kept out of the city; excepting however, it shall be the duty of the City Marshal at all times hereafter to cause every dog to be destroyed wheresoever owned or kept going at large within the city not having a collar upon his neck according to the provisions of a law of this Commonwealth, passed February 27, 1813, and laws to which that is in addition.

[8] SEC. 6. *Be it further ordained*, That the order entitled "an order respecting the going at large of dogs," passed the seventh day of July in the year of our Lord one thousand eight hundred and twenty three, be, and the same is hereby repealed.

CHAPTER XX.

Elections.

ACT OF THE LEGISLATURE.

[1] *Commonwealth divided into Districts for choosing Representatives to Congress.*

[2] *City of Boston to constitute one District.*

[3] *Mode of Election—In Boston to conform to provisions of City Charter. (See City Charter, 23.)*

[4] *In case of no choice, Governor to issue new precepts.*

[5] *In case of vacancy, Governor to issue new precepts.*

[6] *Sheriff's duty to transmit the act to towns.*

[7] *Sheriff's neglect of duty, penalty for—Mayor and Aldermen and Ward Officers, their neglect, penalty for.*

[8] *Repealing clause.*

[9] *Mayor and Aldermen to make separate lists of persons voted for, for Governor, &c.*

[10] *Repealing clause.*

ORDINANCE OF THE CITY.

[11] *Prescribing the mode of electing certain City Officers.*

An Act to divide the Commonwealth into Districts for the choice of Representatives in the Congress of the United States, and prescribing the mode of election.

[*Passed March 5, 1833.*]

[1] SEC. 1. *Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, That [this Commonwealth be, and it hereby is divided into twelve districts, as are in this act defined and described, for the purpose of choosing representatives to represent this Commonwealth in the Congress of the United States, in each of which districts one representative, being an inhabitant of the district for which he shall be elected, shall be chosen in the manner hereinafter described.*

[2] SEC. 2. *Be it further enacted, That the said twelve districts shall be formed and limited in the manner following, viz.*

The city of Boston shall constitute one district, and be called district number one.

[*The remainder of this section relates to the division of the other parts of this Commonwealth.*]

[3] SEC. 3. *Be it further enacted*, That the Mayor and Aldermen of the city of Boston, and the Selectmen of the several towns and districts within this Commonwealth, shall, in the manner the law directs for holding elections therein, cause the inhabitants of said city, towns and districts, duly qualified to vote for representatives in the General Court of this Commonwealth, to assemble on the first Monday of April next, and thereafterward biennially on the second Monday in November, beginning on the second Monday in November, in the year of our Lord eighteen hundred and thirty four, to give in their votes for their representatives respectively, and at such town or district meetings, the Selectmen, or the major part of them, shall preside, and shall, in open town meeting, receive, sort and count the votes, and shall form a list of the names of the persons voted for, with the number of votes for each person written in words at length against his name, and the town clerk shall make a record thereof, and the Selectmen shall, in such meeting, make public declaration of the persons voted for, and the number of votes they respectively have, and shall, in open town meeting, seal up the said lists, certified by the Selectmen, and express, on the outside of the said list, the district in which the said votes were given, and shall transmit the same, within three days after the day of such election, to the sheriff of the county in which such town or district lies; and the said sheriff shall transmit the same to the secretary of the Commonwealth within seven days thereafter, or the said Mayor and Aldermen or Selectmen may themselves transmit the same to the secretary of the Commonwealth within ten days after the day of said election. In the said city of Boston, the said election shall be held, and all the proceedings thereon had, and the returns thereof made, in conformity with the directions of the act establishing the city of Boston. [See *City Charter* (23)] And the secretary shall lay the same before the Governor and Council, and in case of an election for any district, by a majority of the votes returned from said district, the Governor shall forthwith transmit to the person so chosen, a certificate of such choice, signed by the Governor and countersigned by the secretary; and the Selectmen of such towns and districts as lie within any county in which there may be no sheriff, shall return such list to the secretary's office within the same term of time as sheriffs are required to do.

[4] SEC. 4. *Be it further enacted*, That in case no person shall be chosen by a majority of all the votes returned from any district, the Governor shall cause precepts to issue to the Mayor and Aldermen of the city of Boston, or the Selectmen of the several towns and districts within such congression-

al district, directing and requiring said Mayor and Aldermen, or Selectmen, to cause the inhabitants of their respective towns and districts, qualified as aforesaid, to assemble as aforesaid, on a day in such precept to be appointed, to give their votes for a representative in congress, which precept shall be accompanied with a list of such persons voted for in such district, as shall have received as many as fifty votes, showing the number of votes for each person, according to such first return; and the same proceedings shall be had thereon, and the same returns made in all respects as before directed in this act, and like proceedings shall be had as often as occasion may require.

[5] SEC. 5. *Be it further enacted*, That whenever any vacancy shall happen in the representation of this Commonwealth, in the congress of the United States, the Governor shall cause precepts to issue to the said Mayor and Aldermen, or the Selectmen of the several towns and districts, within any district in which such vacancy may happen, directing and requiring them to cause the inhabitants of their respective towns and districts, or of said city, to assemble on a day in such precept to be appointed, to give in their votes for a representative to supply such vacancy, and like proceedings, in all respects, shall be had, from time to time, as are herein before provided.

[6] SEC. 6. *Be it further enacted*, That it shall be the duty of the several sheriffs of the respective counties of this Commonwealth, on receiving copies of this act, or any precept from the Governor, for the purpose herein mentioned, to transmit the same seasonably, to the Selectmen of the several towns and districts within their respective counties, to whom such precepts or copies may be directed. And the several sheriffs shall, for said service, be entitled to receive, out of the treasury of this Commonwealth, fifty cents for each of the said copies, and of the precepts so by them seasonably distributed to the Selectmen of the several towns and districts as aforesaid, and for returning the votes from all the towns within the respective counties, which may be seasonably delivered to him as aforesaid, each sheriff shall be entitled to receive seventeen cents a mile, computing from the place of abode of each sheriff, to the secretary's office; and in either case the sheriffs shall present their accounts to the treasurer of the Commonwealth for examination and allowance.

[7] SEC. 7. *Be it further enacted*, That any sheriff who shall neglect to perform the duties which by this act he is directed to perform, shall, for each neglect, forfeit and pay a sum not exceeding two thousand dollars, nor less than two hundred dollars; and if any Selectman, or the

Mayor or either of the Aldermen or ward officers of the city of Boston, shall neglect to perform any of the duties which by this act they are required to perform, each officer so neglecting shall forfeit and pay a sum not exceeding two hundred dollars, nor less than thirty dollars, for any such neglect; said forfeitures to be recovered by indictment before any court of competent jurisdiction, which forfeiture shall enure, one half thereof to the person or persons who shall prosecute for the same, and the other half to the use of the Commonwealth.

[8] SEC. 8. *Be it further enacted*, That all acts and parts of acts, inconsistent with the provisions of this act, be, and the same hereby are repealed.

An Act concerning Elections.

[*Passed March 19, 1833.*]

[9] SEC. 1. *Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same*, That it shall hereafter be the duty of the Selectmen, and of the clerks of the several towns and districts in this Commonwealth, and of the Mayor and Aldermen of the city of Boston, to make and seal up a separate list of the persons voted for as governor, lieutenant governor, counsellors and senators, and representatives in the congress of the United States, and transmit the same to the Secretary of the Commonwealth, or to the sheriffs of their respective counties. And when the said lists shall be received at the office of said Secretary, the seals thereof shall not be broken, but the same shall be kept as they are received, until delivered by him to the two branches of the general court, or to the executive authority, according to the constitution and laws of said Commonwealth.

[*The second section applies only to the Selectmen of Towns.*]

[10] SEC. 3. *Be it further enacted*, That the statute of one thousand eight hundred and six, chapter twenty six, be, and the same is hereby repealed.

An ordinance relative to the election of certain City Officers.

[*Passed May 9, 1822.*]

Be it ordained by the Mayor, Aldermen, and Common Council of the City of Boston, in City Council assembled, That the mode of electing the following officers to wit: Fence Viewers, Surveyors of the High Ways, Surveyors of Lumber,

Cullers of Hoops and Staves, Hogreeves, Haywards and Field Drivers, Pound Keepers, Inspectors of Lime, Surveyors of Hemp, Surveyors of Wheat, Assay Masters, and Cullers of Fish, shall be as follows to wit : they shall first be elected by the Mayor and Aldermen, and sent down to the Common Council for its concurrence, rejection or amendment.

CHAPTER XXI.

Fires.

PART I. PREVENTION.

ACTS OF THE LEGISLATURE.

[1] *Wooden Buildings not to exceed ten feet in height, (as to South Boston, see post (16) —altered to sixteen feet, see (17)—altered to two story buildings, see (19)—exception as to buildings on wharves, &c.*

[2] *Partition walls in Buildings over ten feet high, how to be constructed.*

[3] *Removal of Wooden Buildings,—what wooden buildings not to be occupied as dwelling houses.*

[4] *Who to be liable for breach of foregoing provisions. Penalties.*

[5] *Additional penalties. Duty of Firewards and Assessors.*

[6] *Cocoa not to be roasted without license.*

[7] *Covering of houses, &c. to be of Slate, &c. Penalty.*

[8] *Houses, &c. not built conformably to the act to be altered by whom. Penalty.*

[9] *Tar kettles to be secured.*

[10] *Carrying fire in streets —penalty for.*

[11] *Having fire, &c. in Barns, &c.—penalty for.*

[12] *Fines, how to be recovered.*

[13] *Firewards to compel assistance at fires.*

[14] *Repealing clause.*

1 5] *Fines, distribution of.*

[16] *Ten feet buildings, law relating to, not to extend to South Boston for five years, except as to certain houses.*

[17] *Wooden buildings may be of ten feet post and sixteen feet to top of roof.—Proviso as to windows in roof—(altered, see 25.)*

[18] *Repealing clause.*

19] *Two story wooden buildings, how to be built.*

[20] *Partition walls in, provision as to.*

[21] *Roofs to be slated.*

[22] *Restrictions as to buildings of more than fifty feet in extent.*

[23] *Penalties.*

[24] *Repealing clause.*

[25] *Windows in Roofs, allowed.*

[26] *Crackers, &c.—penalty for having in possession, selling or setting fire to.*

[27] *Repealing clause.*

ORDINANCE OF THE CITY.

[28] *Guns—penalty for firing.*

[29] *Squibs, &c.—penalty for discharging.*

[30] *Brick kilns, Furnaces, &c.—penalty for erecting, &c.*

An act to secure the town of Boston from damage by fire.
[*Passed Feb. 23, 1818.*]

[1] SEC. 1. *Be it enacted by the Senate and House of Representatives in General Court assembled and by the authority of the same,* That from and after the passing of this act, no house or building of any kind whatsoever, which shall be more than ten feet high from the ground to the highest point in the roof thereof, shall be erected or built within the town of Boston, unless all the external sides and ends thereof, shall be built or composed of brick or stone ; except so much as may be necessary for doors and windows, and unless the roofs of all such houses or buildings shall be entirely covered with slate, tile or some incombustible composition ; and the gutters secured effectually against fire ; and no brick or stone wall shall be deemed sufficient, within the meaning of this act, unless the same shall be at least twelve inches thick in the lower story ; and eight inches thick above the lower story , and all additions, which shall be made to houses or buildings already erected, and all houses or buildings which shall be erected on old foundations, in part or in whole, shall be deemed and considered within the restrictions and regulations of this act : *Provided, nevertheless,* that upon any wharf, marsh or other place, where no sufficient foundation can be obtained, without unreasonable expense, on permission of the firewards of said town, or the major part of them, in writing, wooden houses or buildings, of not more than two stories high, may be erected, which shall be covered on all sides with slate, tile or lime mortar, and filled in with bricks laid in mortar, and the roofs and gutters shall be secured as before directed.

[2] SEC. 2. *Be it further enacted,* That in all cases where one dwelling house, ware house, store, mill, stable, or other building, above ten feet high, is separated from another dwelling house, or ware house or store, or mill, or stable, or other building, above ten feet high, by a partition, such partition shall be built of stone or brick, and shall be twelve inches thick in the lower story and eight inches thick above the lower story ; and shall be built up as far as may be necessary, in order to cover or cap the same with flat stones above the roof ; and such wall shall be entirely covered or capped with flat stones, at least two inches in thickness above the roof ; and every person offending against this section, shall forfeit and pay a sum not exceeding one hundred dollars, nor less than fifty dollars.

[3] SEC. 3. *Be it further enacted,* That no wooden building more than ten feet high, shall be removed from any part of the town of Boston to any other place within the same town,

without permission of the firewards of said town, or the major part of them, under such restrictions and provisions as they shall prescribe, nor shall any wooden building heretofore erected within the said town, and not now used as a dwelling house, be hereafter occupied as a dwelling house, or for any other purpose than that to which it is now applied, without the permission of the firewards, as aforesaid.

[4] SEC. 4. *Be it further enacted*, That every person who shall erect or add to, or cause to be erected or added to, any building in said town of Boston, contrary to the true intent and meaning of this act, and every person owning such building so unlawfully erected, and any person who shall remove or alter, or cause to be removed or altered, any building as aforesaid, and every person who shall hereafter use and occupy as and for a dwelling house, any wooden building, heretofore erected within the said town, and not now used or intended for a dwelling house, or shall convert the same to any other purpose than that to which it is now applied, without permission first had and obtained from the firewards of said town, or the major part of them ; every person in eitherwise so offending, shall forfeit and pay a fine not less than fifty dollars, nor more than five hundred dollars, according to the nature and aggravation of the offence.

[5] SEC. 5. *Be it further enacted*, That in addition to the fines above mentioned, there shall be laid and assessed upon every house or other building, which shall be erected contrary to the true intent and meaning of this act, the sum of fifty dollars annually, and every year, until such building or addition thereto, shall be effectually secured against fire, and made to conform to the provisions of this act. And it shall be the duty of the Firewards of the said town of Boston to return to the assessors of said town annually, a list of all such houses or other buildings erected contrary to the provisions of this act, together with attested copies of the record of the conviction of any person or persons for such offence ; and thereupon it shall be the duty of the said assessors, to assess upon the owner or owners of the said building or buildings, the sum of fifty dollars, for each and every successive year thereafter, until said house or building shall be made conformable to the provisions of this act which sum shall be payable by the person or persons by whom said house or building shall be owned ; and shall be collected in the same manner as other taxes are collected : *Provided, nevertheless*, that no such house or building shall be subjected to such annual tax, until an attested copy of said conviction, shall have been duly recorded in the office

of the Register of Deeds for the county of Suffolk, whose duty it shall be to receive and record the same.

[6] SEC. 6. *Be it further enacted*, That if any person or persons shall, within the said town of Boston, roast, or cause to be roasted, any cocoa, for the purpose of manufacturing the same into chocolate, in any building whatever, excepting such as may or shall be licensed for that purpose by the major part of the Firewards of the town aforesaid, he, she or they, shall forfeit and pay for every such offence, a sum not exceeding five hundred dollars, nor less than two hundred dollars.

[7] SEC. 7. *Be it further enacted*, That all houses or buildings within the said town of Boston, which have been, or which shall hereafter be, erected in the manner described in this act, and which are now or which may hereafter be covered, with slate, tile, or other incombustible composition, shall continue to be so covered with slate, tile or other incombustible composition, and shall be kept effectually secured against fire, in manner as is herein before described. And if any person or persons, being owner or proprietor of any house or other building, or having authority, or whose duty it shall be to repair the same, shall hereafter suffer his, her or their house, or other building, to remain in whole or in part uncovered with slate, tile, or other incombustible composition for the space of thirty days, after he, she, or they, shall have been notified to repair or cover the same by the Firewards of the town of Boston, he, she, or they shall forfeit and pay, for such offence, a sum, not exceeding one hundred dollars, nor less than twenty dollars ; and shall be subject to a like fine for every thirty days afterwards that such house or building shall be by him, her, or them, suffered to remain so uncovered, in the manner required by this act.

[8] SEC. 8. *Be it further enacted*, That whenever any house or other building within the said town of Boston, hereafter erected, shall be found to have been erected contrary to the provisions of this act, the owner or owners of such house or building, or other person lawfully holden to keep the same in repair, shall be held and required to alter and make such house or building to conform to the provisions of this act. And any person or persons as aforesaid, who shall suffer his, her, or their house, or other building, to be and remain not conformable to the provisions of this act, for the space of thirty days, after he, she, or they shall have been notified by the Firewards of the said town thereof, shall forfeit and pay for such offence, a sum not exceeding one hundred dollars, nor less than twenty dollars, and shall be subject to a like fine for every thirty days afterwards, that such house or building shall be by him, her or

them suffered to remain out of repair, and exposed to fire as aforesaid, and not conformable to the provisions of this act.

[9] SEC. 9. *Be it further enacted*, That every Tar kettle, which shall be made use of in said town for the purpose of boiling tar, for the use of any ropewalk, and every kettle, boiler, or copper, for the use of any caulker, graver, ship carpenter, tallow chandler, soap boiler, painter or other like artificer, shall be so fixed as to prevent all communication whatsoever between the contents of such kettle, boiler, or copper and the fire. And that the fire-place under every such tar or other kettle, boiler, or copper, shall be constructed with an arch built over the same and secured by an iron door, in such manner as to enclose the fire therein; and every person who shall erect any tar kettle or other kettle, boiler or copper, or use the same for any or either of the purposes aforesaid, contrary to the provisions of this act, shall for every such offence, forfeit and pay a sum not exceeding three hundred dollars, nor less than fifty dollars, according to the degree and aggravation of the same.

[10] SEC. 10. *Be it further enacted*, That every person who shall carry any fire through the streets, lanes, or on any wharves in said town, except in some covered vessel, or who shall kindle a fire in any of the places aforesaid, without the permission therefor in writing, of one or more of the firewards of said town, or shall smoke or have in his or her possession, any lighted pipe or segar, in any street, lane or passage way, or on any wharf in said town, shall forfeit and pay for each and every offence, the sum of two dollars, to be recovered of the person so offending, or of his parent, guardian, master or mistress.

[11] SEC. 11. *Be it further enacted*, That if any person shall have in his or her possession, in any rope walk, or in any barn or stable within said town, any fire, lighted pipe or segar, lighted candle, or lamp, except such candle or lamp is kept in a secure lantern, the person so offending shall forfeit and pay for each offence, a sum not exceeding one hundred dollars nor less than twenty dollars.

[12] SEC. 12. *Be it further enacted*, That all and any of the penalties which are given in and by this act, or in and by a certain act, made and passed the fifteenth day of June, in the year of our Lord one thousand eight hundred and sixteen, entitled “An Act regulating the storage, safe keeping and transportation of Gun powder in the town of Boston,” may be recovered by indictment, information or complaint in any court proper to try the same; and in such indictment, information or complaint, it shall not be necessary to set forth any more of said acts, than so much thereof as

relates to, and is necessary, truly and substantially to describe the offence alleged to have been committed. And it shall be the duty of each and every fireward in the town of Boston, and they and each of them are hereby required to enquire after all offences which shall come to their knowledge, and which shall be committed against the true intent and meaning of this act, and shall cause the same to be duly prosecuted.

[13] SEC. 13. *Be it further enacted*, That it shall be lawful for any one or more of the firewards of said town to require and compel the assistance of all or any of the inhabitants of said town, and any other persons, who shall be present as spectators of any fire ; and in any suit or prosecution therefor, it shall be lawful for them to plead the general issue, and give this act in evidence ; and if any person shall disobey the lawful and reasonable command of any Fireward or Firewards, to aid in extinguishing such fire, or in rescuing property from destruction thereby, such person, so offending, shall be liable to a fine not exceeding twenty dollars, to be recovered in manner aforesaid.

[14] SEC. 14. *Be it further enacted*, That all acts heretofore passed to secure the town of Boston from damage by fire, be, and the same are hereby repealed, excepting that such parts thereof, as may be necessary to recover all fines and penalties incurred upon the acts aforesaid, shall still remain in full force for that purpose.

[15] SEC. 15. *Be it further enacted*, That all the fines, penalties and assessments, which shall be recovered by force of this act, shall accrue and enure, one half to the use of the poor of the town of Boston, to be paid to the overseers of the poor thereof, and the other half to the Firewards of said town : *Provided, however*, that whenever in the trial of any prosecution under this act, any one or more of the said Firewards shall be sworn and examined as a witness, or as witnesses therein, record thereof shall be made in Court, and the whole fine or penalty in such case, shall enure to the use of the poor of the town of Boston, and be paid to the overseers of the poor thereof as aforesaid.

An act partially to suspended the operation of an act to secure the town of Boston from damage by fire.

[*Passed June 16, 1821.*]

[16] *Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same,* That the operation of all laws now in force, which restrain the erecting and placing of wooden buildings in the town of Boston of more than ten feet in height from the ground to the highest point in the roof thereof, be, and the same are hereby suspended, so far as they respect any house, or other building, which may be erected or placed in that part of the town of Boston called South Boston, and which was heretofore set off from the town of Dorchester, for and during the term of five years from the passing of this act. *Provided however,* that such suspension and exemption, shall not be deemed to extend to any house or building of any kind, to be erected or placed within that part of the town of Boston aforesaid, called South Boston, which shall be more than thirty feet high from the ground to the highest part thereof, or more than forty feet square, or within fifty feet of any other house or other building. And the operation of the laws aforesaid, hereby partially suspended, and all penalties, forfeitures and disabilities thereby imposed, and every clause and provision thereof, shall have the like force and effect, in regard to all houses and other buildings, erected or placed in said South Boston, in any manner not conformable to the conditions and provisions of this act, and in regard to all persons who may be amenable therefor, as if this act had not been passed. [*Expired by its own limitation.*]

An act regulating the building with wood within the town of Boston. [*Passed June 16, 1821.*]

[17] **SEC. 1.** *Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same,* That from and after the passing of this act, it shall be lawful to build houses, or other buildings of wood within the the town of Boston, the posts whereof, measuring from the bottom of the lower sill to the top of the plate, shall not exceed ten feet, and the pitch of the roof thereof, not to exceed one third pitch: *Provided,* that such roof be of a regular slope from the plate to the top thereof, [*and that no window or windows shall be erected or made on the sloping part of the roof of*

such house and building : [Repealed by act Feb. 5, 1830.] And provided, also, that in no case shall any such house or building exceed sixteen feet in measure from the ground to the highest point in the roof.

[18] SEC. 2. *Be it further enacted, That so much of the laws heretofore passed, as are inconsistent with the provisions of this act, be and the same are hereby repealed.*

An act to provide for the erection of Two Story Wooden Buildings in the City of Boston.

[*Passed June 15, 1822.*]

[19] SEC. 1. *Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, That from and after the passing of this act, it shall be lawful to erect, within the city of Boston, two story wooden buildings, to be used for dwelling houses, and for no other purpose, except for such purposes as may be appropriated by the Firewards of said city of Boston, of the following description, to wit : the posts to be not more than eighteen feet, the roof to be of a regular pitch of one third ; the bottom of the sills to be elevated not exceeding eighteen inches above the level of the street, or above the point where such level shall be determined on by the city authorities ; such buildings in no case to be more than thirty feet in height from the bottom of the sill, to the highest point of the roof ; and in no case to be more than forty by twenty-five feet on the ground : the roof to be slated, and to have at least one window or scuttle in the same.*

[20] SEC. 2. *Be it further enacted, That whenever two or more buildings as aforesaid shall be joined together, there shall be a partition wall of brick, at least eight inches in thickness, to extend in height at least to an even surface with the under side of the slating of the roof ; and whenever any such building shall be erected within five feet of the boundary line of the owner or owners of the land on which it may be built, unless such boundary line be on the highway, it shall have a brick wall of like thickness on the side so adjoining : *Provided*, that no two story wooden buildings provided for in this act, shall be erected within ten feet of each other, unless one of them have a brick wall on the side next adjoining, of the dimensions aforesaid.*

[21] SEC. 3. *Be it further enacted, That whenever any out buildings shall be connected with the dwelling houses pro-*

vided for in this act, of more than eleven feet in height, the roof of such out buildings shall be covered with slate.

[22] SEC. 4. *Be it further enacted*, That from and after the passing of this act, no wooden building shall be erected within the city of Boston, except in that part called South Boston, in a range of more than fifty feet in extent, without the intervention of a brick partition wall, of at least eight inches in thickness, such wall to extend six inches at least above the surface of the roof; and no wooden buildings shall be placed within four feet of each other, unless the wall of one of them so adjoining, be of brick or stone, of the thickness aforesaid.

[23] SEC. 5. *Be it further enacted*, That any person who shall be convicted, in due course of law, of violating any of the provisions of this act, either by himself or agent, shall forfeit and pay for each and every such violation, not less than fifty, nor more than five hundred dollars; which penalty he shall pay annually, until such building shall be removed or constructed according to law; one half of said penalty to enure and be paid to the person who shall complain or sue for the same, and the other half to said city of Boston; the same to be recovered in an action of the case, or by indictment.

[24] SEC. 6. *Be it further enacted*, That all laws now in force, so far as they are inconsistent with the provisions of this act, be, and the same are hereby repealed.

An act in addition to "An act regulating the building with wood within the town of Boston." [*Passed Feb. 5, 1830.*]

[25] *Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same*, That so much of the act to which this is in addition, and also so much of the ninth section of the act, for the protection of the City of Boston against fire, passed on the tenth day of March, in the year of our Lord one thousand eight hundred and twenty-seven, respectively, as provide that no window or windows shall be erected, or made, on the sloping part of the roof of such house or building as is described in the said acts, be and the same are hereby repealed.

An act to prevent damage from firing Crackers, Squibs, Serpents, and Rockets. [*Passed June 20, 1826.*]

[26] SEC. 1. *Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That from and after the first day of July next, if any person shall have in his possession any cracker, squib, serpent or rocket, within this Commonwealth, with intent to sell, or with intent to set fire to the same, or if any person shall offer for sale, sell or give any cracker, squib, serpent, or rocket, or if any person shall set fire to any cracker, squib, serpent, or rocket, or shall throw any lighted cracker, squib, serpent, or rocket, within the same, without a license of the Mayor and Aldermen of the City of Boston, or of the Selectmen of the several towns in this Commonwealth respectively, first obtained therefor, he shall forfeit for every such offence the sum of five dollars, one moiety to the use of the poor of the city, or town in which the offence shall be committed, and the other moiety to the use of the prosecutor, to be recovered by action of debt, or by information, before the Justices of the Police Court of the City of Boston, or before any Justice of the Peace of the County, in which the offence may be committed, with costs of suit.

[27] SEC. 2. *Be it further enacted,* That an act passed the fourth day of March, one thousand eight hundred and six, entitled, "An act to prevent damage from firing crackers squibs, serpents and rockets, within this Commonwealth," be and the same is hereby repealed, from and after the time when this act shall take effect.

ORDINANCE OF THE CITY.

An ordinance forbidding the firing of Guns, prohibiting Fire-Works in certain cases, and to prevent damage by fire.

[*Passed Dec. 18, 1826.*]

[28] SEC. 1. *Be it ordained by the Mayor, Aldermen and Common Council of the City of Boston, in City Council assembled,* That no person shall fire or discharge any gun, fowling piece, or fire arms within the limits of the city, which shall be loaded with balls or shot, or with powder only, under a penalty for every such offence, of a sum not less than *one dollar* nor more than *twenty dollars*: *Provided, however,* that the provisions of this section shall not extend to the firing of any gun or other fire arm, in the lawful defence of the person,

family, or property of any citizen ; nor to the firing of any such gun or fire arm at any military exercise or reviews.

[29] SEC. 2. *Be it further ordained*, That no person or persons shall discharge or set off, any squibs, serpents, rockets, or other fire works, or make any bonfire, or other fire, in any of the streets, squares, commons, lanes, or alleys, or upon or from any house or other building, or on any wharf, within the city, without leave first had and obtained therefor from the Mayor and Aldermen, under a penalty for every such offence, of a sum not less than *one dollar*, nor more than *twenty dollars*.

[30] SEC. 3. *Be it further ordained*, That no person henceforth, shall erect make or fire, or cause to be erected, made or fired, within any part of this city, (excepting that part thereof called South Boston,) any brick kiln or lime kiln, or any furnace for the melting of Iron, or other metals, unless it be in such places as the Mayor and Aldermen, shall by their license, in writing allow and approve of for such purpose, under penalty of a sum not less than *one dollar*, nor more than *twenty dollars*, and a like sum for every week he shall continue such kiln or furnace after notice to remove the same.

CHAPTER XXI

PART II. EXTINGUISHMENT.

ACTS OF THE LEGISLATURE.

[31] *Enginemen to be appointed by Selectmen of towns—not exceeding fifteen—(altered, see (41) (37) (38)—their duty as to choice of officers and establishing rules, &c.*

[32] *Meetings of Enginemen to examine Engines—their duty at fires.*

[33] *Private Engines—Engineers for—to be appointed.*

[34] *Exemption from Military duty or serving as Jurors or Constables.*

[35] *Neglect of duty—Enginemen to be discharged for.*

[36] *Repealing clause.*

[37] *Injuring engines—penalty for.*

[38] *Enginemen — their number increased to twenty-one.*

[39] *Enginemen — their number further increased—by consent of Captains of military companies—exception.*

[40] *Select enginemen—their appointment and duty.*

[41] *Towns may exempt enginemen from serving as Jurors.*

[42] *Number of enginemen*

may be increased by Mayor and Aldermen.

[43] *Firewards to be chosen by towns—penalty for not serving—their duty.*

[44] *Firewards power to pull down buildings, &c.—and in removing furniture, &c—to direct enginemen.*

[45] *Buildings pulled down—their owners to be compensated—appeal to Court of Sessions.*

[46] *Purloining, &c. property—penalty for.*

[47] *Riggers lofts and stables—where not to be constructed.*

[48] *Appropriation of penalties.*

[49] *Firemen to be appointed by Selectmen, (Mayor and Aldermen)—their duty.*

[50] *Firemen's companies to be organized.*

[51] *Meetings of firemen for examination of apparatus—their duties at fires.*

[52] *Exemption from Military duty, &c.*

[53] *Discharge for neglect of duty.*

An Act empowering the Selectmen of such town where there may be Fire Engines, to appoint Enginemen ; and repealing the laws heretofore made for that purpose.

[*Passed Feb. 7, 1786.*]

WHEREAS it is of importance that provision should be made to render the use of Engines, for extinguishing fires, as beneficial as possible :

[31] SEC. 1. *Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That the Selectmen of such towns in this Commonwealth, as are or may be provided with a fire engine or engines, be, and they are hereby empowered, if they judge it expedient, as soon as may be after the passing of this act, to nominate and appoint a number of suitable persons, (not exceeding fifteen to one engine,) for enginemen ; who shall continue in said office, during the pleasure of such Selectmen ; which enginemen shall be, and they are hereby authorized and empowered to meet together sometime in the month of May annually, at which meeting they shall have authority to choose a master or director, and clerk of said engine ; and establish such rules and regulations, respecting their duty as enginemen, as shall be approved of by the Selectmen, and to annex penalties to the same ; which may be recovered by the clerk of said enginemen, before any Justice of the Peace in the same County ; *Provided*, no penalty shall exceed forty shillings, and that such rules and regulations, shall not be repugnant to the laws of this Commonwealth.

[32] SEC. 2. *And be it enacted by the authority aforesaid,* That the respective companies of enginemen, who may be nominated and appointed in pursuance of this act, shall be held : and obliged to meet together once a month, and oftener if necessary, for the purpose of examining the state of the engine to which they belong, and the appendages belonging to the same, and seeing that the said engine is in good repair, and ready to proceed on any emergency, to the relief of any part of the community that may be invaded by the calamity of fire ; and the said enginemen appointed as aforesaid shall be held and obliged to go forward, either by night or by day, under the direction of the Firewards in the same town, and to use their best endeavors to extinguish any fire that may happen in the same town or the vicinity thereof, and shall come to their knowledge without delay

AND WHEREAS, there may in some towns be an engine or engines the property of individuals, who would incline the same

might be employed for the benefit of said town, subject to the like regulations and privileges, as though the said engine or engines appertained to the said town.

[33] SEC. 3. *Be it enacted by the authority aforesaid,* That whenever the proprietor or proprietors of any engine or engines, shall apply to the Selectmen of any town in which the said engine or engines may be, setting forth that they have such engine or engines, which they are desirous should be employed for the benefit of the said town, the selectmen of such town, upon application as aforesaid, may appoint engine men in the same manner, with the same privileges, and subject to the same regulations, as though the said engine or engines were the property of the said town.

[34] SEC. 4. *And be it further enacted,* That the persons who may be appointed enginemen in pursuance of this act, shall be, and they are hereby exempted from common and ordinary Military duty, and from serving as Jurors, or in the office of a constable, during the time they may be employed in the service as aforesaid.

[35] SEC. 5. *Be it enacted by the authority aforesaid,* That if any person, being appointed in manner herein before directed, shall, in the opinion of the said Selectmen, be negligent and remiss in the duties required of him, as an engine-man, in this act, it shall be the duty of the Selectmen in the same town, upon sufficient evidence thereof, to discharge him from said company, and proceed to appoint another engine-man in his room, in the manner herein before directed.

[36] SEC. 6. *And be it further enacted,* That all the acts heretofore made, providing for the appointment of engine-men, be, and they are hereby repealed.

An act more effectually to secure Fire Engines from being injured. [*Passed Feb. 8, 1802.*]

WHEREAS it has sometimes happened, that some people from a wanton, and others from a malicious disposition, have injured the public fire engines, provided for the extinguishment of fires, which may unfortunately happen in the habitations and other buildings of the inhabitants; for prevention whereof in future,

[37] *Be it enacted by the Senate and House of Representatives in General Court assembled and by the authority of the same,* That if any person shall wantonly or maliciously spoil, break, injure, damage, or render useless, any engine, or any of the apparatus thereto belonging, prepared by any town, society, person or persons, for the extinguishment of fire, and shall be convicted thereof before the Supreme Judicial Court, he shall be punished by a fine not exceeding five hundred dollars, or by imprisonment not exceeding two years, at the discretion of the court, and be further ordered to recognize with sufficient surety or sureties, for his good behaviour, for such a term as the court shall order.

An act in addition to an act entitled “ An act empowering the Selectmen of such towns where there may be Fire Engines, to appoint Engine-men, and repealing the laws heretofore made for that purpose.

[*Passed March 8, 1806.*]

[38] SEC. 1. *Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same,* That the Selectmen of the several towns in this Commonwealth, be and they hereby are respectively authorized and empowered, if they shall judge it expedient, to nominate and appoint, from time to time, from and after the passing of this act, any number, not exceeding six men to each engine, in addition to the number of fifteen men, now authorized by the act to which this is an addition, amounting to twenty one men for each engine.

[39] SEC. 2. *Be it further enacted,* That the Selectmen of the several towns in this Commonwealth be, and they hereby are, respectively authorized and empowered, if they shall judge it expedient, to nominate and appoint from time to time, from and after the passing of this act, any number not exceeding four men to each engine, in addition to the said number of twenty one men : *Provided, however,* that such addition be made with the consent of the commanding officers of the respective military companies from which such additional number may be taken : *And provided, also,* that no military company be thereby reduced under the number prescribed by law ; and all engine-men appointed in pursuance of this act, shall continue in office during the pleasure of the Selectmen

of the several towns, whereto they may belong, and shall enjoy all the privileges and exemptions to which other engine-men are or may hereafter be by law entitled.

[40] SEC. 3. *Be it further enacted*, That the said Selectmen may, in their discretion select from the engine-men aforesaid, any number for each engine, in their respective towns, whose duty it shall be, under the direction of the Firewards, to attend fires therein, with axes, fire hooks, fire sails and ladders, and who shall do such further duty as the said Selectmen shall from time to time prescribe, and shall be entitled to all the exemptions and privileges aforesaid.

An act to empower the several towns in this Commonwealth to excuse such of their Inhabitants, as are engine-men, from serving as Jurors in any Court within this Commonwealth.

[*Passed Nov. 17, 1808.*]

[41] *Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same*, That all persons legally attached to any engine within this Commonwealth, be and they hereby are excused from being chosen or drawn to serve as Jurors in any court within this Commonwealth, in all cases where the town, to which such engine-men belong, shall at a legal meeting of its inhabitants, by vote, declare the expediency of excusing such persons from serving as Jurors.

An act to authorize the Mayor and Aldermen of the City of Boston, to increase the number of Engine-men, in certain cases. [*Passed Jan. 30, 1823.*]

[42] *Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same*, That whenever the firewards of the City of Boston, shall represent in writing to the Mayor and Aldermen of said City that an increase of the number of men, now by law authorized to be appointed to any particular engine within said city, may be required, in consequence of suction hose, or any increase power of such engine, or the additional apparatus thereto, for the more speedy and effectual extinguishment of

fire, within said city, it shall be lawful for the said Mayor and Aldermen to nominate and appoint such additional number of men not exceeding ten in any one case, to the number now by law authorized to be appointed ; who shall be held to perform all the duties, and enjoy all the privileges and exemptions, other enginemen are entitled to by the several laws now in force.

An act for the extinguishment of Fire, and to direct the proceedings thereat. [*Passed March 10, 1797.*]

[43] SEC. 1. *Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same,* That each town in this Commonwealth, in their March or April meeting annually, wherein the qualified voters shall think it expedient to choose firewards, shall hereafter have power to elect such number of suitable persons to be firewards therein, as shall be deemed necessary ; and each person so elected shall be notified thereof within three days, and shall within three days after being so notified, enter his acceptance or refusal of the said office with the town Clerk. And if any person being so elected and notified, shall neglect to enter his acceptance or refusal as aforesaid, he shall forfeit and pay *ten dollars*, unless excused by the town ; and the town shall have power to elect another in his place, in case of such neglect or refusal. And when any fire shall break out in any town, wherein firewards shall be appointed, they shall immediately attend thereat, and carry with them a suitable staff or badge of their office.

[44] SEC. 2. *Be it further enacted,* That when any fire shall break out in any town, the firewards thereof, who shall be present at the place in immediate danger, or any three of them ; and where no firewards shall be appointed, a major part of the Selectmen present ; or in their absence, two or three of the civil officers present ; or in their absence, two or three of the chief military officers of said town present, shall have power to direct the pulling down or demolishing any such house or building as they shall judge necessary to be pulled down or demolished in order to prevent the further spreading of the fire ; and during the continuance of any fire, the said firewards or officers, as the case may be, shall have power to require assistance for extinguishing the same, and for removing any furniture, goods or merchandize from any building on fire or in danger thereof, and to appoint guards to secure the same ; and also assistance for pulling down or demolish-

ing any house or building, as the case may require ; and further to suppress all tumults and disorders. And the said firewards, selectmen or officers, as the case may be, shall have authority to direct and appoint the stations, and operations of the engine-men, with their engines, and of all other persons, for the purpose of extinguishing the fire and preventing its increase ; and if any person shall refuse or neglect to obey any order given by said firewards or officers in the premises, the person so offending shall forfeit and pay for each offence ten dollars.

[45] SEC. 3. *Be it further enacted*, That if the pulling down or demolishing of any house or building, by the directions aforesaid, shall be the means of stopping the said fire ; or if the fire stop before it come to the same, then every owner of such house or building shall receive a reasonable compensation and be paid for the same by the inhabitants of the town in which the fire shall happen : And it shall be the duty of the qualified voters in such town, to grant each such sum or sums of money as shall be thought necessary and proper by the Selectmen of the same town ; and of the assessors to assess the same : *Provided always*, that when it shall be adjudged fit that the house or building where the fire shall first begin and break out, should be pulled down or demolished, to prevent the further spreading and increase of the said fire, then the owner of such house or building shall receive no compensation for the same : *Provided also*, that if any person shall find him or herself aggrieved by the doings of the town, Selectmen or Assessors thereof, in estimating, voting or assessing such sum or sums, he or she shall have a right to appeal and complain to the next court of General Sessions of the peace to be holden in the county ; and the said court thereon shall have power, on a consideration of all the circumstances of the case, to confirm said doings of said town, Selectmen or Assessors, or to alter the same in such manner as the said court shall judge proper ; and in either case to award legal costs, as the justice of the case may require ; and the collectors, to whom the said assessments shall be committed to collect, shall have the same powers, and be subject to the same duties, as in the collection of other town taxes, as well in collecting an assessment so confirmed or altered, as in cases wherein there shall be no appeal.

[46] SEC. 4 *Be it further enacted*, That if any person shall, in such case of fire, plunder, purloin, embezzle, convey away or conceal any furniture, goods, or chattels, rights or credits, merchandize or effects, of the inhabitants whose houses or buildings shall be on fire, or endangered thereby, and said inhabitants shall be put upon removing the same, and shall

not restore or give notice thereof to the owner (if known) or to one of the firewards of the town, or bring them into such public place as shall be assigned by the Selectmen of the town within two days after public notice shall be posted in some public place in the town by the Selectmen thereof for that purpose; the person or persons so offending and being thereof convicted, shall be deemed guilty of larceny, and punished accordingly.

[47] SEC. 5. *Be it further enacted*, That if any person shall occupy or improve any tenement or building whatever, in any part of any maritime town in this Commonwealth, for the business or employment of a sailmaker, or rigger, or keeper of a livery stable, except only in such parts of the town as the Selectmen thereof, or a major part of them, shall direct and determine, such sail maker or rigger, so offending, shall forfeit and pay for each offence, *ten dollars*: and such keeper of a livery stable shall forfeit and pay for each offence *fifty dollars* for every month so occupying the same, and so in proportion for a longer or shorter time.

[48] SEC. 6. *Be it further enacted*, That the several fines or forfeitures aforesaid, shall be two third parts thereof to the use of the poor of the town, where the offence shall be committed, and the other third thereof to him or them who shall inform and sue for the same, and shall be recoverable with costs of suit, in any court proper to try the same.

An act authorizing the appointment of Firemen in the town of Boston. [*Passed Feb. 7, 1820.*]

[49] SEC. 1. *Be it enacted by the Senate and House of Representatives in General Court assembled and by the authority of the same*, That the Selectmen of the town of Boston, for the time being, be, and they are hereby authorized and empowered, if they judge it expedient, as soon as may be after the passing of this act, to nominate and appoint a number of suitable persons, not exceeding thirty, who shall continue in office during the pleasure of the Selectmen of said town, whose duty it shall be, under the direction of the firewards of said town, to attend fires therein, and the vicinity, with axes, ladders, fire hooks, and such implements and apparatus for the extinguishment of fires, and the preservation of persons and property, as may be provided for that purpose, and placed under their care; and to perform such

further duty, as such Selectmen shall from time to time prescribe.

[50] SEC. 2. *Be it further enacted*, That the fire men so appointed shall and may be organized into one or more distinct companies, under the direction of such Selectmen. And each of said companies is hereby authorized to meet together some time in the month of May annually ; at which meeting they shall have authority to choose a master or director, and clerk of such company, and establish such rules and regulations respecting their duty as fire men, as may be approved by such Selectmen, and to annex penalties for the violation of the same, which may be recovered by the clerk of such company, before any Justice of the Peace for the County of Suffolk : *Provided*, that no such penalty shall exceed the sum of six dollars and sixty seven cents, and that such rules and regulations shall not be repugnant to the laws of this Commonwealth.

[51] SEC. 3. *Be it further enacted*, That the respective companies of firemen, who may be nominated and appointed in pursuance of this act, shall be held and obliged to meet together once a month, and oftener if necessary, for the purpose of inspecting and examining the fire hooks, ladders and other implements and apparatus which may be placed under their care, management and superintendence, and the appendages belonging to the same, and seeing that the same are in good repair, and ready to proceed on any emergency to the relief of any part of the community which may be invaded by the calamity of fire. And the firemen appointed as aforesaid, shall be held and obliged to go forward, under the direction of the firewards of said town, and to use their best endeavors to extinguish and prevent the spreading of any fire, which may happen in said town, or in the vicinity thereof, and which shall come to their knowledge, without delay ; and also to use their best exertions for the preservation of all persons and property which may be exposed to danger thereby.

[52] SEC. 4. *Be it further enacted*, That the persons who may be appointed firemen in pursuance to this act, shall be, and they are hereby exempted from common and ordinary military duty, and from serving as Jurors, or in the office of constable, during the time they may be employed in the service aforesaid.

[53] SEC. 5. *Be it further enacted*, That if any one who may be appointed pursuant to the provisions of this act, shall, in the opinions of such Selectmen, be negligent or remiss in the duties required of him, as a fireman, by this act, or by any rules and regulations which may be prescribed and

made in pursuance thereof, it shall be the duty of such Selectmen, upon sufficient evidence thereof, to discharge him from such company, and from his office and duty as a fireman ; and thereupon, to proceed and appoint another person in his room, in the manner herein before directed.

CHAPTER XXI.

PART III. FIRE DEPARTMENT.

ACT OF THE LEGISLATURE.

[54] *Fire Department, of whom to consist, by whom to be appointed.*

[55] *Officers to be appointed, &c. by Mayor and Aldermen — Chief Engineers salary to be fixed by City-Council.*

[56] *Regulations of department to be established by the City Council.*

[57] *Powers of Officers — City liable for damages — distribution of fines.*

[58] *Exemption from military duty. — (See post (63.))*

[59] *Repealing clause.*

[60] *Act to be accepted by the citizens.*

[61] *Acceptance, record of.*

[62] *Certificate of membership, when to be produced.*

[63] *Chief and other engineers, their power as to the gunpowder act.*

[64] *Members to be conditionally exempt from military duty having served seven years.*

[65] *Corporal injury, members of Fire Department may be compensated for, by City Council.*

ORDINANCE OF THE CITY.

[66] *Fire Department to consist of, &c. — appointment — Engineers and certificate.*

[67] *Powers and duties of Engineers.*

[68] *Do. continued.*

[69] *Power and duties of Chief Engineer.*

[70] *Who to command in absence of.*

[71] *Companies, members, &c. how appointed.*

[72] *Ages of, certificates from parents, &c. of minors necessary.*

[73] *Certificates of membership, to be shewn to officers of militia.*

[74] *Officers of, how chosen — companies may make regulations.*

[75] *Foreman and Clerk of companies — duty of, &c.*

[76] *Officers and members — duties of.*

[77] *Duty of companies on return of Engines — drills, &c.*

[78] *Duty of Firemen.*

[79] *Badges to be worn, &c.*

[80] *Penalty for neglect of duty in members.*

[81] *Penalty for persons not members — Engineers to report.*

[82] *Engineers and others, how discharged.*

[83] *Marshal and constables to repair to fires.*

[84] *Duty of watchmen.*

[85] *Burning chimneys — penalty for. Engineers, when to report.*

[86] *Buildings when to be pulled down at fires.*

[87] *Gunpowder, Engineers duty with regard to.*

[88] *Shavings to be removed.*

[89] *Fines, forfeitures and penallies, disposition of.*

[90] *Members serving seven years, privileges.*

[91] *Companies, compensation of.*

[92] *Order to be preserved at Engine houses.*

[93] *City Council, members of may pass lines.*

[94] *Repealing clause.*

An act establishing a Fire Department in the City of Boston.

[*Passed June 18, 1825.*]

[54] SEC. 1. *Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That the Fire Department of the City of Boston, shall hereafter consist of one Chief Engineer, and as many other Engineers, Fire Wardens, Firemen, Hosemen, and Hook and Ladder men, as shall or may, from time to time, be elected and appointed by the Mayor and Aldermen, such election of the chief and other Engineers to be concurred in by the Common Council of said city.

[55] SEC. 2. *Be it further enacted,* That the Mayor and Aldermen of said city be, and hereby are, authorized so to elect and appoint all, or as many of the said officers, to cause certificates to be issued of such election and appointment, and to fix a compensation for the services of the Chief Engineer, annually; said compensation to be concurred in by the Common Council.

[56] SEC. 3. *Be it further enacted,* That it shall be the duty of the City Council of said city, to fix and ordain, from time to time, the powers and duties of those officers respectively, in relation to fire Engines, and all other fire apparatus belonging to, or used in the said city, and also to the care and management thereof, and to the conduct of said officers, and of the citizens present at fires, and to annex penalties for the breach of any rules, or regulations, they may so fix and ordain, not exceeding twenty dollars.

[57] SEC. 4. *Be it further enacted,* That the Chief Engineer, Engineers, and Fire Wardens, so elected and appointed, shall have the same powers and authorities relative to the pulling down or demolishing any house or other building to prevent the spreading of fires, and also relative to all other matters and things affecting the extinguishment or prevention of fires or the commanding assistance at them, as Fire Wardens now by law

have, subject always to such modification as the City Council, or the Legislature of this Commonwealth may ordain and establish. And the said City of Boston shall be liable to pay all such reasonable compensation for damage done by, or consequent upon, the acts or directions of said Chief Engineer, Engineers, and Fire Wardens, as other towns in this Commonwealth are liable to pay in like cases, for like acts and directions, done or given by their Fire Wardens ; and all fines and forfeitures arising within the said City of Boston, under the laws of this Commonwealth, relative to the extinguishment of, or proceeding at fires, shall be distributed in such way and manner, and applied to such use as the said City Council shall from time to time ordain and determine, any thing in said laws to the contrary notwithstanding, subject always to repeal or alteration by the Legislature of this Commonwealth.

[58] SEC. 5. *Be it further enacted*, That every member of said Fire Department shall be exempt from militia services so long as he shall continue to serve in said department ; and it shall be the duty of the person so exempted, to produce to the commanding officer of the militia company within whose bounds he may reside, on or before the first Tuesday of May, in each year, a certificate signed by the Mayor of the city stating that he is a member of said Fire Department.

[59] SEC. 6. *Be it further enacted*, That from and after the organization of a Fire Department under this Act, and notice thereof given in one or more newspapers published in said city, by the Mayor thereof, all laws of this Commonwealth relating to the election and appointment of Fire Wards, so far as they affect the election or appointment of Fire Wards within the said city, be and the same are hereby repealed.

[60] SEC. 7. *Be it further enacted*, That the provisions of this Act shall not take effect until the same shall have been accepted by the ballots of the citizens of Boston, at a general meeting called for that purpose.

[61] This Act was accepted by ballot, at a general meeting of the citizens, held at Faneuil Hall, July 7th, 1825, according to the provisions of the same.

Attest,

S. F. MCLEARY, *City Clerk*.

ACT OF THE LEGISLATURE.

An act in addition to an act, entitled “An act establishing a Fire Department in the City of Boston:”

[*Passed March 2, 1827.*]

[62] SEC. 1. *Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same,* That every member of the Fire Department of the City of Boston, established by the act to which this is in addition, shall be holden to produce, within thirty days after he shall have become a member of said department, and annually, in the month of May thereafter, to the Commanding Officer of the Militia Company, within whose bounds he may reside, a certificate from the Mayor of said city, stating that he is a member of said Fire Department.

[63] SEC. 2. *Be it further enacted,* That the Chief Engineer and Engineers of said city, shall have the same powers and authorities heretofore granted to and invested in the Firewards of the town of Boston, by the act, entitled “An act regulating the storage, safe keeping, and transportation of Gunpowder, in the town of Boston,” or by any other act heretofore enacted on that subject.

An act in addition to an Act establishing a Fire Department in the City of Boston. [*Passed March 3, 1829.*]

[64] *Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same,* That every member of the Fire Department of the City of Boston, who shall produce a certificate, signed by the Mayor of said City, that he has served as a member of said Fire Department for seven successive years after the age at which the laws of the United States, or of this Commonwealth, may hold the citizens thereof liable to enrolment in the Militia, shall be exempted from all Militia duty excepting that of keeping himself constantly furnished with the arms and equipments required by the laws of the United States, and the duty of carrying or sending them on the first Tuesday of May, annually, to the place of inspection or view of arms of the company, within whose bounds he may reside, and in which he is enrolled.

An act further in addition to an act establishing a Fire Department in the City of Boston. [*Passed June 21, 1831.*]

[65] *Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same,* That the City Council of the city of Boston shall have power and they are hereby authorized, whenever, and as often as they shall deem it expedient, to appropriate any sum or sums of money, in the way that may be judged by said Council most advisable, for the relief or indemnity of any member or members of the Fire Department who may sustain corporal injury, or contract sickness in the discharge of their duty, on the occasion of any fire or consequent thereon.

ORDINANCE OF THE CITY.

An ordinance for the preventing and extinguishing fires, and establishing a Fire Department,
[*Passed July 15, 1833.*]

[66] SEC. 1. *Be it ordained by the Mayor, Aldermen, and Common Council of the City of Boston, in City Council assembled,* That the Fire Department shall consist of a Chief Engineer, and as many other Engineers, not less than twelve and not exceeding twenty in number, one of whom shall reside in each Ward at the time of his election, and of as many Firemen, Enginemen, Hosemen and Hook and Ladder men, to be divided into Companies, as the number of Engines and the number and quantity of other Fire Apparatus, belonging to the city, shall from time to time require or make expedient; and the election and appointment of the said Engineers shall take place according to law, annually: *Provided*, that vacancies may be filled at any time, and the said chief and other engineers shall on his or their appointment, receive a written or printed certificate or warrant in the words following, viz:—"this certifies that A. B. is appointed an Engineer (or Chief Engineer) of the Fire Department of the City of Boston, and is entitled to all the immunities belonging to said office.

Given under my hand this day of , A. D. 18 .
Mayor.

City Clerk."

and the respective rank of the Engineers shall be determined by the Mayor and Aldermen.

[67] SEC. 2. *Be it further ordained*, That the Engineers so appointed shall meet and organize themselves into a Board of Engineers ; of which nine shall form a quorum, and of which in the absence of the Chief Engineer, the senior Engineer present shall be the presiding officer ; and they may appoint such Secretary or other officers, and may make such rules and regulations for their own government, as they may see fit. They shall at all times have the superintendence and control of all the engine and other houses used for the purposes of the Fire Department, and of all furniture and apparatus thereto belonging : and of the Engines and all other Fire Apparatus belonging to the city, and over the officers and members of the several companies attached to the Fire Department, and over all other persons present at fires ; and may make such rules and regulations for the better government, discipline, and good order of the Department, and for the extinguishment of fires, as they may from time to time think expedient, the same not being repugnant to the laws of this Commonwealth, and being subject to the approbation of the Mayor and Aldermen.

[68] SEC. 3. *Be it further ordained*, That it shall be the duty of said Engineers, whenever a fire shall break out in the city, to repair forthwith to, or near the place where the fire may be ; to take proper measures that the several engines, and other apparatus, be arranged in the most advantageous situations, and duly worked for the effectual extinguishment of the fire ; to require and compel assistance from all persons, as well members of the Fire Department, as others, in extinguishing the fire, removing furniture, goods, or other merchandize, from any building on fire or in danger thereof, and to appoint guards to secure the same ; and also in pulling down or demolishing any house or building, if occasion require, and further to suppress all tumults and disorders. It shall also be their duty to cause order to be preserved in going to, working at, or returning from fires ; and at all other times when companies attached to the Department are on duty : Provided, however, that when any fire occurs in either of the adjoining towns, it shall be the duty of only such, and so many of said Engineers to repair to such town, as shall have been previously designated for said purpose by said Board of Engineers.

[69] SEC. 4. *Be it further ordained*, That the Chief Engineer shall have the sole and absolute control and command over all the Engineers and all other persons attached to the Fire Department, and shall direct all proper measures for the extinguishment of fires, protection of property, preservation of order, and observance of the Fire Laws, Ordinances and Regulations, and it shall be the duty of said Chief Engineer, to ex-

amine into the condition of the engines, buckets, and all other fire apparatus, and of the engine and other houses belonging to the city, and used for the purposes of the Fire Department ; and of the companies attached to the said Department, as often as circumstances may render it expedient, or whenever directed so to do by the Mayor and Aldermen, or by the Committee of the Board of Aldermen on the Fire Department, and annually to report the same to the Mayor and Aldermen, and oftener if thereunto requested ; also to cause a full description of the same, together with the names of the officers and members of the Fire Department, to be published annually, in such manner as the Mayor and Aldermen shall direct. And whenever the Engines, or other Fire Apparatus, Engine or other houses used by the Fire Department require alterations, additions, or repairs, the Chief Engineer, under the direction, of the Board of Aldermen or of the Committee on the Fire Department, shall cause the same to be made. And it shall be moreover the duty of the Chief Engineer to receive and transmit to the Board of Aldermen all returns of officers, members, and Fire Apparatus, made by the respective companies as hereinafter prescribed, and all other communications relating to the affairs of the Fire Department : To keep fair and exact Rolls of the respective companies, specifying the time of admission and discharge, and the age of each member ; to report in writing to the City Clerk, who shall keep a record of the same, once in each year, or oftener if directed so to do by the Mayor and Aldermen, all accidents by fire which may happen within the City, with the causes thereof as well as can be ascertained, and the number and description of the buildings destroyed or injured, together with the names of the owners or occupants.

[70] SEC. 5. *Be it further ordained*, That in case of the absence of the Chief Engineer, the Engineer next in rank who may be present, shall execute his office with full powers.

[71] SEC. 6. *Be it further ordained*, That as many Engine, Hose, Hook and Ladder, and Fire Companies, shall from time to time be formed by the Mayor and Aldermen as they shall deem expedient, and each of said companies shall consist of as many men as said Mayor and Aldermen may appoint, not exceeding to each Engine Company seventy-five, to each Hose and Hook and Ladder Company fifty, and to each Bucket, Fire or other Company, twenty-five, unless otherwise ordered by the Mayor and Aldermen.

[72] SEC. 7. *Be it further ordained*, That no person under eighteen years of age shall be admitted a member of the fire department ; and that not more than one fifth part of any com-

pany shall be persons under twenty-one years of age ; and that no person under twenty-one years of age shall be an officer in any company : That the age of every person under twenty-one years whose name shall be offered to the Mayor and Aldermen for admission into any company, shall be stated in the list ; and that no person under the age of twenty-one years, shall be admitted into the Fire Department unless a written certificate of the consent of his parents, master or guardian, shall be transmitted to the Mayor and Aldermen with his application for admission.

[73] SEC. 8. *Be it further ordained*, That every member of the Fire Department shall upon his appointment by the Mayor and Aldermen receive a certificate or warrant which he shall be holden to produce within thirty days after he shall have become a member of said department ; and annually, in the month of May thereafter, to the commanding officer of the militia company within whose bounds he may reside.

[74] SEC. 9. *Be it further ordained*, That each of the companies formed, and appointed by the Mayor and Aldermen, shall choose a foreman, two assistant foremen and a clerk, at such times as they may deem expedient, to be approved and warranted by the Mayor and Aldermen, who, after being so approved and warranted, shall serve until others are chosen, unless sooner discharged by the Mayor and Aldermen. They may also make such rules and regulations respecting the internal government of their respective companies as they may deem expedient—subject to the approbation of the Mayor and Aldermen ; and a copy of said regulations shall be deposited with the Mayor and Aldermen, and another with the Board of Engineers.

[75] SEC. 10. *Be it further ordained*, That it shall be the duty of the foreman to see that the several engines and apparatus committed to their care, and the several buildings in which the same are deposited, and all things in or belonging to the same, are kept neat, clean, and in order for immediate use ; it shall also be their duty to preserve order and discipline at all times in their respective companies, and require and enforce a strict compliance with the City Ordinances, the Rules and Regulations of the Department, and the orders of the Engineers. They shall also keep, or cause to be kept by the clerks of their respective companies, fair and exact Rolls, specifying the time of admission, discharge, and the age of each member, and accounts of all city property entrusted to the care of the several members, and fair records of the proceedings of the company, in a book provided for that purpose by the city, which Rolls or Record Books are always to be subject to the order of the

Board of Engineers, and the Mayor and Aldermen. They are also to make, or cause to be made to the Chief Engineer, true and accurate returns of all the members, with their ages, and the apparatus entrusted to their care, whenever called upon so to do ; and also special returns of all persons admitted by the company, with their ages, and of all officers chosen by the company, and of all members discharged therefrom, within ten days after such admission, election, or discharge, to be by said Chief Engineer transmitted to the Mayor and Aldermen.

[76] SEC. 11. *Be it further ordained*, That it shall be the duty of the officers and members of the several Engine, Hose, Hook and Ladder and Fire Companies, whenever a fire shall break out in the City, to repair forthwith to their respective Engines, Hose, Hook and Ladder and Bucket carriages, and other apparatus, and to convey them in as orderly a manner as may be to or near the place where the fire may be, and in conformity with the directions of the Chief, or other Engineer, to exert themselves in the most orderly manner possible, in working and managing the said Engines, Hose, Hooks, and Ladders, and other apparatus, and in performing any duty that they be called upon to do, by any Engineer,—and upon permission of the Chief or other Engineer, shall, in an orderly and quiet manner, return said Engine, Hose, Hook and Ladder and Bucket Carriages, and other apparatus, to their respective places of deposit. *Provided*, That in the absence of all the Engineers, such directions and such permission may be given by their respective foremen.

[77] SEC. 12. *Be it further ordained*, That on the return of said engines and other apparatus, they shall, by the said Companies, respectively, be well washed, cleansed, oiled, and securely housed ; and once in every month, and oftener if necessary, said companies shall meet for the purpose of examining the state of their respective Engines and other apparatus, and seeing that the same are in good order and fit for service ; and once in each of the months of May, July, and September, shall draw out their respective Engines and other apparatus, to wash and cleanse them, and to exercise the members ; and the same carefully return.

[78] SEC. 13. *Be it further ordained*, That it shall be the special duty of firemen to exert themselves to supply water for the Engines, to protect the engine-men and other members of the Department from being interrupted in the discharge of their duty by the bystanders, to keep all idle and suspected persons at a proper distance from the fire, and from the vicinity, to save and protect furniture, merchandize, and other property, to form lines across the streets, lanes, and avenues, leading to

the place where the fire is, and at reasonable and proper distances therefrom, for the purpose of preserving order, preventing plunder, excluding all improper persons, enforcing the regulations of the Department, and to perform any other duty which they may be called upon to do by any Engineer.

[79] SEC. 14. *Be it further ordained*, That the Engineers and members of the several companies regularly admitted and appointed, shall wear such caps, badges, or insignia, as the Mayor and Aldermen shall from time to time direct to be furnished at the expense of the city ; and no other person or persons shall be permitted to wear the same except under such restrictions and regulations as the Mayor and Aldermen may direct.

[80] SEC. 15. *Be it further ordained*, That if any member of either of the several companies, shall wilfully neglect or refuse to perform his duty, or shall be guilty of disorderly conduct, disobedience to their officers, or to any Engineer, he shall, for each and every such offence, forfeit and pay a penalty not less than three nor more than five dollars, or may be suspended from duty, (in which case he shall not be allowed to wear the badge or other insignia of the department during the term of such suspension) or be discharged from the Fire Department, by the Mayor and Aldermen. *Provided*, That any member or members of either of said companies, may for any of the above offences, be temporarily suspended, by the joint orders of the Chief and one other Engineer, or in case of the absence of the Chief Engineer, by the joint orders of three other Engineers, of whom the next in rank to the Chief Engineer who may be present, shall be one ; until the circumstances can be investigated, and the case determined by the Mayor and Aldermen.

[81] SEC. 16. *Be it further ordained*, That all persons present not members of either of said companies, are hereby enjoined to obey the directions of any Engineer, given at any fire, and to render their services, if required by any Engineer, under a penalty of not less than two nor more than twenty dollars ; and it shall be the duty of the Chief and other Engineers, to report to the Mayor and Aldermen, the name of every person liable to the penalties provided by this section, and also the name of members of either of the several companies, neglecting or refusing to comply with the duties by this ordinance enjoined.

[82] SEC. 17. *Be it further ordained*, That the City Council may by a concurrent vote, at any time, remove from office the Chief Engineer or any of the other Engineers and

that the Mayor and Aldermen may at any time discharge any or all of the members of either of said companies.

[83] SEC. 18. *Be it further ordained*, That it shall be the duty of the City Marshal and Constables of the city, to repair with their Staves or such other Badges of office as the Mayor and Aldermen shall direct on the alarm of fire, immediately to the place where the fire may be, and there to use their best skill and power, under the direction of the City Marshal or Head Constable, for the preservation of the public peace, the prevention of theft, and dilapidation of property, and the removal of all suspected persons, for which service the Constables shall receive such compensation as shall be in each case ordered by the Mayor and Aldermen.

[84] SEC. 19. *Be it further ordained*, That immediately on the alarm of fire, it shall be the duty of the respective Watchmen to give notice thereof, within their respective districts, by crying "Fire," and mentioning the street or direction where it may be, and if any Watchman shall neglect so to do, he shall forfeit and pay one dollar, and if it shall happen that a chimney only shall be on fire either by night or day, the bell shall not be rung, but only when a building is proclaimed to be on fire.

[85] SEC. 20. *Be it further ordained*, That if any chimney, stove-pipe, or flue within the city, shall take or be set on fire, the occupant of the house to which such chimney, stove-pipe or flue appertains; or the person or persons so setting the same on fire, shall forfeit and pay the sum of two dollars: *Provided*, That it shall be lawful for any person to set fire to, and burn his chimney, stove-pipe, or flue, between sunrising and noon; if the buildings contiguous are wet with rain or covered with snow; and it shall be the duty of the Chief and other Engineers to report to the Mayor and Aldermen the name of every person liable to the penalty provided by this section, in their first returns thereafter.

[86] SEC. 21. *Be it further ordained*, That whenever it shall be determined at any fire by any three or more of the Engineers, or a majority of any greater number of the Engineers present, to be necessary, to pull down or otherwise demolish any building the same may be done by their joint order.

[87] SEC. 22. *Be it further ordained*, That the power of making and establishing rules and regulations for the transportation and keeping of Gunpowder within the city of Boston, and of granting Licenses for the keeping and sale thereof in the city, according to the provisions of an act, entitled 'an act for further regulating the storage, safe keeping, and transportation of Gunpowder in the town of Boston,' and of any other Act or

Acts on the same subject shall be exercised and performed by the Chief and other Engineers, and the power and duty of seizing any Gunpowder kept or being within the said city or the harbor thereof contrary to the provisions of the said Act or Acts, shall be exercised and performed by the said Engineers or any of them, and in case of any seizure being made by any Engineer, other than the Chief, he shall forthwith report to the Chief Engineer, who shall cause said Gunpowder to be libelled and prosecuted in the manner prescribed in the said first mentioned statute, and all the other powers and duties granted or enjoined in and by the said Act or Statutes, shall be performed by the said Chief or one of the other Engineers.

[88] SEC. 23. *Be it further ordained*, That it shall be the duty of the Chief and other Engineers, to inquire for, and examine into all shops and other places, where shavings or other such combustible materials may be collected and deposited, and from time to time, and at all times, to be vigilant in taking care of the removal of the same, whenever in the opinion of any two of them, the same may be dangerous to the security of the city from fires, and to direct the tenant or occupant of said shops or other places to remove the same, or to pay the expense of such removal under the direction of such Engineers.

[89] SEC. 24. *Be it further ordained*, That all moneys received for fines, forfeitures, and penalties, arising under this ordinance and the laws of this Commonwealth, regulating the storage and transportation of Gunpowder, the erection of buildings within the city of Boston, and the prevention and extinguishment of fire, shall be paid into the Treasury of the City, to be applied in such way as is provided by the Acts of this Commonwealth.

[90] SEC. 25. *Be it further ordained*, That every member of the Fire Department of the City of Boston, who shall have served according to law for seven successive years, shall be entitled to receive a certificate thereof, signed by the Mayor of said city, and all persons who shall receive said certificate as aforesaid, shall be entitled to wear the badge of the Department, and do duty therein, under such organization and management as the Mayor and Aldermen may determine.

[91] SEC. 25. *Be it further ordained*, That annually in the month of January, there shall be paid from the City Treasury in lieu of all premiums or other compensation on warrant of the Mayor and Aldermen, to the foreman of the respective companies as follows :

To each company, entitled by the order of the Mayor and Aldermen as aforesaid, to seventy-five members, seventy-five dollars : to each company so entitled as aforesaid to fifty mem-

bers, fifty dollars; to each company so entitled to twenty-five members, twenty-five dollars.

[92] SEC. 27. *Be it further ordained*, That whenever the members of the several companies shall assemble at the several houses entrusted to their care, either on duty or company business, order and regularity shall be preserved, and that it shall be the duty of the officers and members of said companies, to refrain from assembling unnecessarily at said houses, particularly on Sundays; and that at all times the utmost care and economy shall be exercised in the use of fuel, lights, and other property furnished by the city.

[93] SEC. 28. *Be it further ordained*, That any member of the City Council may enter within the lines at any fire by wearing a suitable badge for that purpose, to be provided by the Mayor and Aldermen.

[94] SEC. 29. *Be it further ordained*, That from and after the passing of this Ordinance, all former Ordinances relating to the appointment, of Engineers and other members of the Fire Department, and to the establishing of a Fire Department, and for preventing and extinguishing fires, excepting such parts thereof as may be necessary to recover all fines and penalties incurred under the Ordinances aforesaid, be, and the same hereby are repealed.

CHAPTER XXII.

Gunpowder.

ACTS OF THE LEGISLATURE.

[1] *Taking loaded arms into houses prohibited—under penalty of ten pounds.*

[2] *Loaded arms in houses may be seized by Firewards—to be sold at public auction if adjudged forfeit upon their complaint.*

[3] *Appeals in such prosecutions allowed.*

[4] *Powder, how much may be kept by any United States or State officer, and where.*

[5] *Powder kept contrary to above provision, may be seized by Firewards and sold.*

[6] *Gunpowder exceeding one pound, not to be kept within two hundred yards of any wharf, or on the main land.—If so, contrary to this statute, liable to seizure.*

[7] *No Gunpowder to be sold within the city without license from Engineers. Form of license to contain rules and regulations—time in which same may continue in force—Provided, Engineers may annul the same. Fees for license five dollars, for renewal, one dollar.*

[8] *Engineers may make rules for the transportation of Gunpowder, and for the manner of keeping the same, and also direct all needful precautions.*

[9] *Penalties for offences against this statute, not to exceed five hundred dollars, nor less than one hundred. In case of explosion where so kept contrary to law, not less than five hundred dollars, nor more than one thousand, one moiety to the use of the poor, and the other to the prosecutor.*

[10] *Gunpowder in Boston contrary to the provisions of this act may be seized by one or more Engineers, and libeled at Municipal Court within twenty days thereafter.—a copy of Libel and Summons to be served fourteen days before sitting of the Court—if adjudged forfeit, the possessors to pay costs of prosecution. If they cannot be found, Court may adjudicate—and either of the processes may be served in any County.*

[11] *Penalty for hindering Engineers, or attempting to rescue powder, not less than one hundred dollars nor more than five hundred dollars, to be recovered by action of the case by any person—Duty of all citizens to assist the Engineers.*

[12] *Engineers may enter and examine stores, &c. of those licensed, to ascertain if their rules, &c. are observed. On alarm of fire may remove or de-*

stroy powder. Enter and examine any dwelling house or other place for the same, having obtained a search warrant from the Police Court.

[13] Persons injured by explosion of Gunpowder kept contrary to the provisions of this Statute, may have an action of the case, to recover damages.

[14] Engineers to publish their rules and regulations in two or more newspapers for three weeks successively.

[15] Fines may be recovered as before provided, or by indictment, complaint, or information. Not necessary to set forth more of this act than is

necessary to describe the offence.

[16] Fines, &c. not heretofore appropriated, to go one half to the poor, and the remainder to the Engineers; Provided, if one or more of said Engineers shall be a witness on the trial, then the whole to go to the use of the poor.

[17] This act to take effect from time of passing the same. Repealing clause; Provided, all offences before committed may be prosecuted under the old law, and all orders and rules of Engineers shall be in force until altered or annulled by them.

An act in addition to the several acts already made for the prudent storage of Gun powder within the town of Boston.

[Passed March 1, 1783.]

WHEREAS the depositing of loaded arms in the houses of the town of Boston, is dangerous to the lives of those who are disposed to exert themselves when a fire happens to break out in said town.

[1] SEC. 1. *Be it enacted by the Senate and House of Representatives in General Court assembled and by the authority of the same, That if any person shall take into any dwelling house, stable, barn, out house, ware house, store, shop or other building within the town of Boston, any cannon, swivel, mortar, howitzer, cohorn, or fire arm, loaded with or having gunpowder in the same, or shall receive into any dwelling house, stable, barn, out house, store, ware house, shop, or other building within said town, any bomb, grenade, or other iron shell, charged with, or having gun powder in the same, such person shall forfeit and pay the sum of ten pounds, to be recovered at the suit of the Firewards, [duties of Firewards transferred to Engineers,] of the said towns, in an action of debt before any court proper to try the same; one moiety thereof, to the use of said Firewards, and the other moiety to the support of the poor of said town of Boston.*

[2] SEC. 2. *Be it further enacted*, That all cannons, swivels, mortars, howitzers, cohorns, fire arms, bombs, grenades, and iron shells of any kind, that shall be found in any dwelling house, out house, stable, barn, store, ware house, shop or other building, charged with or having in them any gunpowder, shall be liable to be seized by either of the Firewards of said town; and upon complaint made by the said Firewards to the Court of Common Pleas, of such cannon, swivels, mortars, or howitzers, being so found, the Court shall proceed to try the merits of such complaint by a jury; and if the jury shall find such complaint supported, such cannon, swivel, mortar or howitzer, shall be adjudged forfeit, and sold at public auction; one half of the proceeds thereof shall be disposed of to the Firewards, and the other half to the use of the poor of the town of Boston. And when any fire arms, or any bomb, grenade, or other shell, shall be found in any house, out house, barn, stable, store, ware house, shop or other building, so charged, or having gun powder in the same, the same shall be liable to be seized in manner aforesaid; and on complaint thereof, made and supported before a Justice of the Peace, shall be sold and disposed of, as is above provided for cannon.

[3] SEC. 3. *Be it further enacted*, That appeals shall be allowed in prosecutions upon this act, as is usual in other cases.

An act in further addition to "an act in addition to acts regulating the storage, safe keeping and transportation of Gunpowder within the town of Boston.

[*Passed Feb. 22, 1814.*]

[4] SEC. 1. *Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same*, That from and after the first day of April next, no commissary, or any other officer or officers, or any person or persons, in the service of the United States, or acting in the department of Commissary or Quarter Master General of this Commonwealth, shall be permitted to have, keep, or possess within the town of Boston, a greater quantity of Gunpowder than four hundred pounds; and that powder so had and possessed within the said town, shall be kept in a place approved of by the Firewards of the said town, either under

ground in a vault, or in a stone or brick building secured against explosion by fire.

[5] SEC. 2. *Be it further enacted*, That any Gunpowder which shall be found in the possession of, or which may be had or kept within the town of Boston, by any officer or officers, or any person or persons whatsoever, acting in the behalf or under the authority of the United States, or by any agent or servant of any such officer or persons; and all Gunpowder possessed, had or kept, by any officer of the Commissary or Quarter Master General's Department of the State of Massachusetts, or persons acting under the authority of these departments, contrary to the provisions of this act, may be seized by any two or more of the Firewards of the town of Boston, and the same may be libelled and condemned and sold, and the proceeds thereof distributed as is by law provided for the forfeiture of Gunpowder in other cases within said town.

An Act further regulating the storage, safe keeping, and transportation of Gunpowder in the City of Boston.

[*Passed March 25, 1833.*]

[6] SEC. 1. *Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same*, That no person, except on military duty in the public service of the United States, or of this Commonwealth, shall keep, have or possess, in any building, or in any place, or in any carriage, or on any wharf, or on board of any ship, or other vessel, within two hundred yards of any wharf, or of the main land, in the city of Boston, gunpowder in any quantity exceeding one pound, in any way or manner, other than by this act, and by the rules and regulations hereinafter mentioned, may be permitted and allowed. And all gunpowder, had, kept or possessed, contrary to the provisions of this act, and of such rules and regulations, shall be forfeited, and liable to be seized and proceeded against in the manner hereinafter provided.

[7] SEC. 2. *Be it further enacted*, That it shall not be lawful for any person or persons to sell any gunpowder, which may, at the time, be within the city of Boston, in any quantity, without first having obtained from the engineers of said city, a license, signed by the chief engineer, or by the secretary of the board of engineers, on which shall be written, or printed, a copy of the rules or regulations by them established, relative to

keeping, selling and transporting gunpowder within said city, and every such license shall be in force for one year from the date thereof, unless annulled by the board of engineers, and no longer; but such license may, prior to the expiration of that term, be renewed by the chief engineer or the said secretary, from year to year, by endorsement thereon,—*provided always*, that the board of engineers may rescind any such license, if in their opinion the person or persons have disobeyed the law, or infringed any rules and regulations established by said board of engineers. And every person who shall receive a license to sell gunpowder as aforesaid, shall pay for the same the sum of *five dollars*—and for the renewal thereof, the sum of *one dollar*—which sums shall be paid to the board of engineers, for their use, for the purpose of defraying the expenses of carrying this act into execution.

[8] SEC. 3. *Be it further enacted*, That the board of engineers of the city of Boston may establish rules and regulations, from time to time, relative to the times and places at which gunpowder may be brought to or carried from said city by land or water, the times when and the manner in which the same may be transported through said city, to direct and regulate the kind of carriages and boats, in which the same may be so brought to, carried from and through said city, and to direct the manner in which gunpowder may be kept by licensed dealers, and other persons, and to direct and require all such precautions as may appear to them needful and salutary to guard against danger in the keeping and transportation of gunpowder.

[9] SEC. 4. *Be it further enacted*, That any person or persons, who shall keep, have, or possess any gunpowder within the city of Boston, contrary to the provisions of this act, and to the rules and regulations made as aforesaid, or who shall sell gunpowder therein without having a license therefor, or contrary to said license, or the rules and regulations made as aforesaid, shall forfeit and pay a fine of not less than *one hundred dollars*, and not exceeding *five hundred dollars*, for each and every offence; and if any gunpowder, kept contrary to the provisions of this act shall explode in any building, or on board any ship or other vessel, or in any place in said city, the occupant, tenant or owner of which has not then a license to keep and sell gunpowder therein, or which gunpowder shall have been kept in any manner contrary to such license, or to the rules and regulations established as aforesaid, such occupant, tenant or owner shall forfeit and pay a fine of not less than *five hundred dollars*, and not exceeding *one thousand dollars*;—one moiety of the sums which may be so forfeited shall accrue to the use

of the poor of the city of Boston, and the other moiety to the use of any person or persons who shall prosecute for the same, which forfeitures may be recovered by action of the case in any court proper to try the same.

[10] SEC. 5. *Be it further enacted*, That all gunpowder, which shall be kept, had or possessed within the city of Boston, or brought into or transported through the same, contrary to the provisions of this act, and to the rules and regulations made as aforesaid, may be seized and taken into custody by any one or more of the engineers of said city, and the same shall, within twenty days next after the seizure thereof, be libelled, by filing in the office of the clerk of the municipal court of the city of Boston, a libel, stating the time, place and cause of such seizure, a copy of which libel, or the substance thereof, together with a summons or notice, which such clerk is hereby authorized to issue, shall be served on the person or persons, in whose custody or possession such gunpowder shall have been seized, if such person be an inhabitant of this Commonwealth, by delivering a copy thereof to such person or persons, or leaving such a copy at his, her, or their usual place of abode, fourteen days at least before the sitting of the court at which the same is to be heard, that such person or persons may appear and shew cause why the gunpowder so seized and taken should not be adjudged forfeit. And if the gunpowder so seized shall be adjudged forfeit, the person or persons, in whose custody or possession the same was seized, or the occupant or tenant of the place wherein the same was so seized, shall pay all costs of prosecution, and execution shall be issued therefor, *provided*, that it appear to the court that such person or persons had notice of such prosecution by service as aforesaid, and in case the person or persons in whose custody or possession such gunpowder may be seized, shall be unknown to the engineer or engineers making such seizure, or in case such gunpowder, at the time of seizure, may not be in the custody or possession of any person, or if it shall appear by the return of the officer that such person cannot be found, or has no place of abode in this Commonwealth, then said court shall and may proceed to adjudication thereon. And such libel or summons, and also such writ of execution for costs, shall and may be served and executed in any county in this Commonwealth, and by any officer competent to execute civil process in like cases.

[11] SEC. 6. *Be it further enacted*, That any person or persons, who shall rescue, or attempt to rescue, any gunpowder seized as aforesaid, or shall aid or assist therein, or who shall counsel and advise, or procure the same to be done, or who shall molest, hinder or obstruct any engineer in such seiz-

ure, or in conveying gunpowder so seized to a place of safety, shall forfeit and pay a fine for each offence of not less than *one hundred dollars*, and not exceeding *five hundred dollars*, to be sued for and recovered by action of the case, by any person or persons who shall sue for the same, in any court proper to try the same; and it is hereby made the duty of all persons to aid and assist such engineer or engineers in executing the duties hereby required.

[12] SEC. 7. *Be it further enacted*, That the said engineers, or any of them, may enter the store or place of any person or persons licensed to sell gunpowder, to examine and ascertain if the laws, rules and regulations relating thereto are strictly observed; and on an alarm of fire, may cause the powder there deposited to be removed, or destroyed, as the case may require; and it shall be lawful for any one or more of the engineers of said city to enter any dwelling house or other place in the city of Boston, to search for gunpowder, first having obtained from a justice of the police court in said city a search warrant therefor, which warrant the justices of said court are hereby authorized to issue, upon the complaint of such engineer or engineers, supported by his or their oath.

[13] SEC. 8. *Be it further enacted*, That any person who shall suffer injury by the explosion of any gunpowder, had, kept, or transported within the city of Boston, contrary to the provisions of this act, and of the rules and regulations established as aforesaid, may have an action of the case in any court proper to try the same, against the owner or owners of such gunpowder, or against any other person or persons who may have had the possession or custody of such gunpowder, at the time of the explosion thereof, to recover reasonable damages for the injury thus sustained.

[14] SEC. 9. *Be it further enacted*, That it shall be the duty of the engineers of the city of Boston, to cause all such rules and regulations as they may make and establish, by virtue of the authority given by this act, to be published in two or more newspapers printed in the city of Boston, and to cause such publication to be continued three weeks successively, for the information and government of all persons concerned.

[15] SEC. 10. *Be it further enacted*, That all fines, penalties and forfeitures, which may arise and accrue under this act, shall and may be prosecuted for and recovered, either in the manner herein before specially provided, or by indictment, complaint, or information in any court proper to try the same. And this act shall be taken and deemed to be a public act, of which all courts, magistrates and citizens are bound to take notice as such; and in any libel, action, indictment, informa-

tion, or complaint upon this act, it shall not be necessary to set forth any more of the same than so much thereof as relates to, and may be necessary truly and substantially to describe the offence alleged to have been committed.

[16] SEC. 11. *Be it further enacted*, That all fines, penalties and forfeitures, which shall be recovered by force of this act, and which are not otherwise appropriated, shall accrue and enure, one half to the poor of the city of Boston, to be paid over to the overseers of the poor thereof, and one half to the engineers of said city : *provided, however*, that whenever, on the trial of any prosecution under this act, any one or more of said engineers shall be sworn and examined as a witness or witnesses therein, record thereof shall be made in court, and in that case, the whole of such fine, penalty, and forfeiture shall accrue and enure to the poor of said city, and to be paid over as aforesaid.

[17] SEC. 12. *Be it further enacted*, That this act shall take effect and be in force from and after the passing thereof, and that all acts and parts of acts, heretofore passed, which are inconsistent with, or repugnant to the provisions of this act, be, and the same are hereby repealed : *provided, however*, that the same shall continue in force, for the purpose of prosecuting all offences which may have been committed prior to the passing of this act, in the same manner, to all intents and purposes, as if the same had not been repealed. *And provided further*, that all rules and regulations, made and established by the engineers of said city, under and by virtue of the provisions of such former acts, shall continue to have the same force and effect, until altered or annulled by said engineers, as if this act had not been passed.

CHAPTER XXIII.

Hay. — Hay Scales.

ACT OF THE LEGISLATURE.

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| <p>[1] <i>City Council to appoint persons to superintend Hay Scales—remove the same and fill vacancies—unauthoriz-</i></p> | <p><i>ed persons, setting up Hay Scales—penalty for—act to be adopted by City Government.</i></p> <p>[2] <i>Adoption of the act.</i></p> |
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ORDINANCE OF THE CITY.

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| <p>[3] <i>Public Scales, by whom and how many to be established.</i></p> <p>[4] <i>Suitable stands to be appointed.</i></p> <p>[5] <i>Standing in Street not appointed or delivery of hay &c. not certified, penalty for.</i></p> <p>[6] <i>City Council to appoint weighers.</i></p> <p>[7] <i>Fees for weighing.</i></p> | <p>[8] <i>Duty, hours of attendance and salary of weighers.</i></p> <p>[9] <i>Account, certificate, &c. what to specify.</i></p> <p>[10] <i>Laws regulating weighing &c. to be published and posted up, Officer may be removed.</i></p> <p>[11] <i>Repealing clause.</i></p> |
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[An act to regulate Hay Scales. ¹⁸²⁵[*Passed Feb. 24, 1825.*]

[1] SEC. 1. *Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That the Selectmen for the time being, of every town, or the City Council of any city, in this Commonwealth, be, and they are hereby authorized from time to time, as they may think expedient, to appoint for a term not exceeding one year, one or more person or persons, to have the superintendence of the Hay Scales, belonging to such town or city, whose duty it shall be to weigh hay offered for sale in such town or city, and any other article offered to be weighed ; and the persons or persons so appointed shall conform to all such rules and regulations as shall from time to time be made and established by the Selectmen or City Council, concerning the said Hay Scales, and the use of the same, and the compensation or fees for weighing hay and other articles ; and the said Selectmen or City Council, for the time being, are hereby authorized to remove any weigher, and to fill any vacancy that may

occur from death or otherwise, and if any person not authorized as aforesaid shall set up any Hay Scales, in any town or city, for the purpose of weighing hay, or other articles, he shall forfeit and pay for such offence, the sum of twenty dollars a month, so long as the same shall be continued, to be recovered by an action of debt in any court proper to try the same, to be appropriated to the use of the town or city : *Provided, however,* that this act shall apply to such towns only, as may adopt the same at their annual meeting, in March or April, and shall cease to operate in such towns, whenever, at any meeting, the said town shall so determine : *And provided, also,* that the same shall apply to such cities only as may adopt the same, and shall cease to operate in such city, whenever the city government shall so direct.

[2] In the Board of Aldermen, Dec 1, 1825. *Resolved,* That the City Council of the City of Boston, do hereby adopt an act, entitled "An Act to regulate Hay Scales," passed the twenty fourth day of February, in the year of our Lord, eighteen hundred and twenty five.

Read and passed. Sent down for concurrence.

JOSIAH QUINCY, *Mayor.*

In Common Council, Dec. 5, 1825. Read and concurred.

FRANCIS J. OLIVER, *President.*

An Ordinance for regulating the weighing of Hay and other articles. [*Passed July 15, 1833.*]

[3] SEC 1. *Be it ordained by the Mayor, Aldermen and Common Council of the City of Boston, in City Council assembled,* That it shall be the duty of the Mayor and Aldermen, from time to time, as the public good may require, to establish a sufficient number of public Scales for the weighing of Hay and other articles, and to cause the same to be erected and furnished with decimal weights, which shall be used in all cases.

[4] SEC. 2. *Be it further ordained,* That it shall be the duty of the Mayor and Aldermen to appoint suitable places in the streets or squares of said City as Stands for the sale of Hay and Straw.

[5] SEC. 3. *Be it further ordained*, That the owner or driver of any waggon, cart, sled, or other carriage containing hay or straw for sale who shall before or after the weighing thereof, stand for sale of such hay or straw, in any other street, or place than one of those so appointed by the Mayor and Aldermen, or who shall sell and *proceed to deliver* any hay or straw within the city without having had the same previously weighed and certified by one of the weighers to be appointed as hereinafter mentioned, according to the provisions of this ordinance, shall forfeit and pay for the use of the city the sum of five dollars, to be recovered by complaint before the Justices of the Police Court.

[6] SEC. 4. *Be it further ordained*, That the City Council shall annually in the month of January appoint by concurrent vote suitable and discreet persons to be weighers of hay and other articles, within the city, who shall hold the said offices during the pleasure of the City Council, and until other persons shall be appointed in their places respectively, each of whom before entering upon the duties of his office shall be duly sworn to the faithful discharge of the same before the Mayor or City Clerk.

[7] SEC. 5. *Be it further ordained*, That the fees for weighing hay and other articles to be received by the said weigher, shall be as follows, viz : one cent and a half for every hundred pounds of hay or straw, one half of a cent for every hundred pounds of anthracite or other coal, and one cent for every hundred pounds of all other articles—*Provided*, however, that the fee for weighing any article other than hay and straw shall never be less than ten cents. And the cart or vehicle containing the same and other tare, shall be weighed without any charge. And no fees shall be taken for any weighing done on account of the city.

[8] SEC. 6. *Be it further ordained*, That it shall be the duty of the persons, so appointed, to attend personally at the scales, which may be assigned to them respectively, every day through the year, Sundays, public fasts, thanksgivings, and the anniversary of American Independence excepted, from sunrise to sunset, (with liberty to close their respective offices from seven to eight o'clock in the forenoon during the months of April, May, June, July, August, and September, and from eight to nine o'clock during the other six months, and from one to two o'clock through the whole year,) to deliver to the driver of every load of hay or straw weighed, a certificate in such form as is herein after provided ; to keep an account of all hay and other articles which shall be weighed at said scales, in books to be furnished by the Mayor and Aldermen, which shall be

always open to their inspection, and when filled, shall be deposited in their office ; and the persons so appointed shall settle their accounts quarterly with the Mayor and Aldermen, and shall pay over to the city, all fees received by them respectively for weighing. And there shall be paid to the weighers aforesaid, quarter yearly in full for the services prescribed in this ordinance, such compensation as the City Government may from time to time fix and determine.

[9] SEC. 7. *Be it further ordained*, That the accounts kept by said weighers, and the certificates given to the drivers of hay or straw, shall specify the name of the owner or driver, the town from which driven, the weight and tare, the amount of fees received, and the date of the certificate.

[10] SEC. 8. *Be it further ordained*, That it shall be the duty of the Mayor and Aldermen to furnish each of the persons so appointed with duplicate copies of all laws in force relating to the weighing of hay and other articles, and of all ordinances of the city of Boston relative thereto ; one of which copies shall be posted up in some conspicuous place in the office of each of said weighers ; and to give public notice in one or more of the newspapers printed in this city, of the persons appointed annually ; and if either of the persons then appointed shall be guilty of any negligence, fraud, or other misbehaviour, the said City Council on any proof thereof shall remove the person so offending, and appoint another in his place.

[11] SEC. 9. *Be it further ordained*, That all by-laws and ordinances, or parts of by-laws and ordinances, relative to the weighing of hay, straw, or merchandize, heretofore passed, be and the same are hereby repealed, except so far as may be necessary for the recovery of the penalty for any breach thereof already incurred.

CHAPTER XXIV.

Health.

ACTS OF THE LEGISLATURE.

[1] *Persons sick with contagious diseases to be removed by Selectmen.*

[2] *Persons coming from infected places to inform Selectmen, and depart if directed, or be removed.*

[3] *Selectmen to cause persons passing ferries, suspected of infection to be examined and restrained.*

[4] *Sheriffs to remove infected persons, and to impress houses, &c.*

[5] *Baggage, &c. to be secured if infected, ware houses to be broken open in search of the same.*

[6] *Inquiry to be made of vessels passing the Castle—vessels to be sent to Quarantine.*

[7] *Goods permitted to be landed—communication with persons on board vessels at Quarantine prohibited.*

[8] *Vessels infected, &c. coming into any harbor may be ordered to Rainsford Island.*

[9] *Masters to make true answers to Selectmen—nurses to be provided.*

[10] *Board of Health, its general powers, (see post 24)*

[11] *May make rules, orders, &c. relating to nuisances, sources of filth, &c—penalty for violating the same.*

[12] *May seize and destroy unwholesome provisions.*

[13] *May make rules, &c. relating to clothing—penalty for violating the same.*

[14] *May make rules relative to Quarantine—Penalty for violating the same.*

[15] *May appoint officers at Hospital Island.*

[16] *May appoint Scavengers, Superintendents of burying grounds, funeral porters, &c.*

[17] *Powers given to Selectmen transferred to Board of Health.*

[18] *Board of Health may remove infected prisoners.*

[19] *May regulate the interment of the dead.*

[20] *May permit the removal of nuisances, and compromise suits—may prosecute—forms of process—Repealing clause.*

[21] *Boston and Roxbury Mill Corporation—Board of Health may cause the flats of to be covered with water.*

[22] *Fines and Penalties under the Board of Health act, how to accrue and be recovered.*

[23] *Prosecutions may set forth the offence substantially.*

[24] *Powers of Board of Health transferred to City Council.*

[25] *Repealing clause.*

[26] *Boston Gas Light Company—Mayor and Alder-*

men to regulate their doings in regard to the health, &c. of the city.

[27] Quarantine, red flags to be provided for vessels at—vessels not to be visited, nor places designated entered—Penalty.

[28] Dead Bodies, penalty for removing unless authorized by Mayor and Aldermen, &c.

[29] Accessories to such

removal to be considered principals.

[30] Surrender of dead bodies to be authorized by Mayor and Aldermen &c.—conditions.

[31] Physicians to use dead bodies for dissection.

[32] Limitation of power given to Mayor & Aldermen, &c.

[33] Repealing clause.

An act to prevent the spreading of Contagious Sickness.

[Passed June 22, 1797.]

[1] SEC. 1. *Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That for the better preventing the spreading of infection, when it shall happen that any person or persons coming from abroad, or belonging to any town or place within this State, shall be visited, or shall lately before have been visited with the plague, small pox, pestilential or malignant fever, or other contagious sickness, the infection whereof may probably be communicated to others, the Selectmen of the town where such person or persons may arrive, or be, are hereby empowered to take care and make effectual provision, in the best way they can, for the preservation of the inhabitants by removing such sick or infected person or persons, and placing him or them in a separate house or houses, and by providing nurses, attendance, and other assistance and necessities for them; which nurse, attendance, and other assistance and necessities, shall be at the charge of the parties themselves, their parents or masters (if able) or otherwise at the charge of the town or place whereto they belong; and in case such person or persons are not inhabitants of any town or place within this State, then at the charge of the Commonwealth.

[2] SEC. 2. *And be it further enacted,* That any person or persons coming from any place out of this State, where the small pox or other malignant distemper is prevailing, into any town within this State, shall, when thereto required by the Selectmen of such town, within the space of two hours from the time they shall be first informed of their duty by law in this particular, give notice to one or more of the Selectmen, or the clerk of such town, of their coming there, and of the place from whence they came, upon pain of forfeiting, in case of neglect, the sum of *one hundred dollars*. And such person or

persons, if not disabled by sickness, shall, within the space of two hours after warning given to him or them by the Selectmen of such town for that purpose, depart from this State, in such manner and by such road, as the said Selectmen shall direct; and in case of refusal, it shall be lawful for any Justice of the Peace in the county where such town may lie, by warrant directed to a constable or other proper officer, or other person whom the Justice shall judge proper, to cause such person or persons to be removed into the State from whence he or they may have come; and any person removed by warrant as aforesaid, who, during the prevalence of such distemper, shall presume to return into any town of this State, without liberty first obtained from such Justice, shall forfeit and pay the sum of *four hundred dollars*. And any inhabitant of this State, who shall entertain in his house any person warned to depart as aforesaid, for the space of two hours after notice given him of such warning, by one or more of the Selectmen aforesaid, shall forfeit and pay the sum of *two hundred dollars*.

[3] SEC. 3. *And be it further enacted*, That it shall and may be lawful for the Selectmen of any town near to, or bordering upon either of the neighboring States, to appoint, by writing, under their hands, some meet person or persons to attend at ferries or other places by or over which passengers may pass from such infected places; which person or persons, so appointed, shall have power to examine such passengers as they may suspect to bring infection with them, and, if need be, to hinder and restrain them from travelling, until licensed thereto by a Justice of the Peace within such county, or by the Selectmen of the town in which such person or persons may come; and any passenger who, coming from such infected place, shall (without license as aforesaid) presume to travel within this State, unless it be to return by the most direct way to the State from whence he came, after he shall be cautioned to depart by the person or persons appointed as aforesaid, shall forfeit and pay the sum of one hundred dollars; the several forfeitures aforesaid to be recovered by action of debt in any court of record proper to try the same, one moiety to and for the use of the town where the offence shall be committed, the other moiety to the use of the person who may sue for the same.

[4] SEC. 4. *And be it further enacted*, That if need be any two Justices of the Peace may make out a warrant directed to the sheriff of the county, or his deputy, or constables of the town, or place where any such sick person or persons may be, requiring them or any of them, in the name of the Commonwealth, with the advice and direction of the Selectmen of the

same, to remove such infected person or persons, or to impress and take up convenient houses, lodging, nurses, attendance and other necessities, for the accomodation, safety and relief of the sick. And such sheriff, his deputy and constable, are hereby authorized and required to execute such warrant accordingly.

[5] SEC. 5. *And be it further enacted*, That whenever there shall be brought into any town within this State, either from any other town therein, or from parts without the State, any baggage, clothing or goods of any kind whatsoever, and it shall be made to appear by the Selectmen of the town to which such baggage, clothing, or other goods shall be brought, or by the major part of such Selectmen, to the satisfaction of any Justice of the Peace, that there is just cause to suspect such baggage, clothing, or other goods, to be infected with the plague, snall pox, pestilential fever, or other malignant contagious distemper, it shall be lawful for such Justice of the Peace and he is hereby required, in such case, by warrant under his hand and seal, directed to the sheriff or his deputy, or any constable of the town in which such baggage, clothing, or other goods shall be, requiring him to impress so many men as said Justice shall Judge necessary to secure such baggage, clothing or other goods, and said men to post as a guard and watch over the house or other place or places where such baggage, clothing or other goods shall be lodged; which guard and watch are hereby required to take effectual care to prevent such baggage, clothing, or other goods, being removed or intermeddled with, by any person whatsoever, until due inquiry be made into the circumstances thereof; requiring likewise the said sheriff, his deputy, or the constable aforesaid, if it shall appear necessary, with the advice and direction of said Selectmen, to impress and take up convenient houses or stores, for the receiving, lodging, and safe keeping of such baggage, clothing, or other goods, until the same shall be sufficiently cleansed from such infection: And in case it shall appear highly probable to the said Justice, that such baggage, clothing, or other goods, are infected as aforesaid, he is hereby empowered and directed to issue his warrant in manner as aforesaid, requiring said sheriff, his deputy, or any constable, or other person therein specially named, to remove said baggage, clothing, or other goods, to some convenient place, where there shall be the least danger of the infection spreading; there to remain, until the same shall be sufficiently aired and freed from infection in the opinion of said Selectmen:— And the said sheriff, deputy sheriff, or constable, in the execution of said warrants, are empowered and directed, if need

be, to break up any house, ware house, shop, or other place, particularly mentioned in said warrant, where such baggage, clothing, or other goods shall be ; and in case of opposition, to require such aid as shall be necessary to effect the execution of said warrants, and to repel such opposition ; and all persons are hereby required, at the commandment of either of the said officers, having either of the warrants aforesaid, under penalty of *ten dollars*, to be recovered before any Justice of the Peace in the county where such opposition may happen, to assist such officer in the execution of the same warrant, against any opposition as aforesaid ; and the charges of securing such baggage, clothing, or other goods, and of airing and transporting the same, shall be borne and paid by the owners thereof, at such rates and prices as shall be set and appointed by the Selectmen of the town, where such baggage, clothing, or other goods shall be, to be recovered by action of debt, by any person or persons who may have been employed in the business aforesaid, in any Court of Record proper to try the same.

[6] SEC. 6. *And be it further enacted*, That inquiry shall be made by the officer or other person on duty at the Castle in the harbor of Boston, of every vessel coming from sea, and passing by said Castle, whether any infectious sickness be on board, or has been on board, since such vessel left the port from whence she last came ; and if any such vessel has any sickness on board, or has had any on board, since her leaving such port, in such case, orders shall be given by said officer, or other person on duty, to the master or commander of such vessel, immediately to anchor, and to remain at anchor until a certificate shall be obtained from the major part of the Selectmen of the town of Boston, that they are of opinion such vessel may come up to the town without danger to the inhabitants, or until the said master or commander shall receive orders from the said Selectmen to anchor his vessel near the Hospital on Rainsford Island, in the harbor of Boston. And in case any master or commander of a vessel shall, by himself, or the people on board, make false answer, when inquired of as aforesaid, by the officer or other person on duty as aforesaid, or after orders are given as aforesaid, shall neglect or refuse to anchor near the Castle as aforesaid, or come on shore, or suffer any passenger or other person belonging to the vessel to come on ashore, or any goods to be taken out before the vessel shall have anchored, or without liberty from the Selectmen as aforesaid ; or in case any master or commander of a vessel ordered to anchor near the hospital aforesaid, shall neglect or refuse so to do ; in every such case, every master or commander so of-

fending, shall forfeit and pay for each offence the sum of *four hundred dollars*, or suffer six months imprisonment.

[*Castle Island ceded to the United States, June 25, 1798.*]

[7] SEC. 7. *And be it further enacted*, That upon application made to the Selectmen of the town of Boston, by any master or commander of any vessel at anchor near the Hospital as aforesaid, the said Selectmen are hereby empowered to permit such passengers, goods, or lading, as they shall judge free from infection, to come on shore, or to be taken out and disposed of as the owners shall see fit; and such passengers and goods as shall not be permitted as aforesaid, shall remain on board, or be landed on said Island; and if any master or commander of any such vessel, for the time being, shall come on shore, or suffer any of his people or passengers to come on shore, or any boat to come on board, or suffer any goods to be taken out of his vessel, unless permitted as aforesaid, or shall come up to said town with his vessel, until by a certificate under the hands of said Selectmen, or the major part of them, it shall appear that said vessel, company and goods clear of infection, and the orders for stopping the same be removed or taken off, he shall, for every such offence, forfeit the sum of *two hundred dollars*; and in case he be not able to pay that sum, he shall suffer three months imprisonment; and if any sailors or passengers, coming in said vessel, shall, without the knowledge or consent of the master or commander, presume to come on shore, or up above the Castle aforesaid, or if any person shall knowingly presume to go on board from shore, or go to the aforesaid House or Island in time of infection there, without leave as aforesaid; or if any person put sick into the said house, or sent there on suspicion of being infected, shall presume to go off the said Island without leave as aforesaid; any person offending in any of the particulars above mentioned, shall forfeit the sum of *two hundred dollars*; and in case such person be not able to pay said forfeiture, he shall suffer two months imprisonment. All prosecutions for offences contrary to this and the preceeding section, shall be by indictment or information in the Supreme Judicial Court, or Court of General Sessions of the Peace; and one moiety of all fines mentioned in said sections, shall be to the use of the town of Boston, and the other moiety to the use of the Selectmen of the said town for the time being, whose particular duty it is hereby made to prosecute therefor.

[8] SEC. 8. *And be it further enacted*, That whenever any ship or vessel, wherein any infection or infectious sickness hath lately been, shall come to any harbor within this State; or whenever any person or persons belonging to, or that may,

either by sea or land, come into any town or place near the public Hospital aforesaid, shall be visited, or shall lately before have been visited with any infectious sickness, two of the Justices of the Peace, or Selectmen of such place, be, and hereby are empowered immediately to order the said vessel and sick persons to the said Hospital, there to be taken care of, according to the directions of this act: and where any such ship, vessel, or persons cannot, without great inconvenience and damage, be ordered to the aforesaid Hospital, in any such case, the rules and directions are to be observed, which are provided in the first enacting clause of this act; and in case the master or mariners of any vessel ordered to the Hospital as aforesaid, shall refuse or delay, for the space of six hours after such order being given to said master, or either of the owners of said vessel, or of the factors, or either of said owners of the goods, to come to sail, if wind and weather permit, in order to proceed to said Hospital, such master so refusing, shall forfeit and pay the sum of *four hundred dollars*; and each mariner so refusing, the sum of *one hundred dollars*; and in case they be not able to pay said sums, they shall suffer six months imprisonment; one half of said fine to be to the informer, and the other half to the poor of the town or district, to which such port or harbour belongs, and to be recovered in any Court of Record proper to try the same, by indictment or information.

[9] SEC. 9. *And be it further enacted*, That if any master, seaman, or passenger, belonging to any vessel, on board which any infection is, or may have lately been, or suspected to have been, or which may have come from any port where any infectious mortal distemper prevails, shall refuse to make answer on oath to such questions as may be asked him or them, relating to such infection, by the selectmen of the town to which such vessel may come, (which oath the said selectmen are hereby empowered to administer,) such master, seaman, or passenger, so refusing, shall forfeit the sum of *two hundred dollars*; and in case he be not able to pay said sum, he shall suffer six months imprisonment; said penalty to be adjudged on prosecution by indictment or information in any court proper to try the same; one moiety of said fine to the use of the town where the offence may be committed, and the other moiety to the use of the selectmen thereof, whose particular duty it is hereby made to prosecute therefor. And the selectmen of Boston are hereby authorized and directed to provide nurses, assistance, and other necessities, for the comfort and relief of such sick persons as may be sent to said Hospital as aforesaid: the charge thereof to be borne by the said persons themselves, if able: or if poor, and unable, by the

towns to which they respectively belong ; or if not inhabitants of any particular town, or other place within this State, then by the Commonwealth.

[SEC. 10. *Provides that courts may adjourn from infectious towns.*]

[SEC. 11. *Provides that a Health Committee or officer may be appointed by towns at their annual meetings.*]

[*Repealed as to Boston. Act June 20, 1799.*]

[SEC. 12. *Provides the manner of disposing of infectious vessels, at other towns than Boston.*]

[SEC. 13. *Provides that previous laws be repealed.*]

An act to empower the town of Boston to choose a Board of Health, and to prescribe their power and duty.

[*Passed June 20, 1816.*]

[SEC. 1. *Irrelevant since the organization of the City Government as it provides for the choice and organization of the Board of Health.*]

[10] SEC. 2. *Be it further enacted*, That said Board of Health shall have power, and it is hereby made their duty, to examine into all causes of sickness, nuisances, and sources of filth that may be injurious to the health of the inhabitants of the town of Boston, which do, or may exist within the limits of the town of Boston, or on any island, or in any vessel within the harbour of Boston, or within the limits thereof, and the same to destroy, remove or prevent, as the case may require ; and whenever said board shall think it necessary for the preservation of the lives or health of the inhabitants of Boston, to enter forcibly any building, or vessel, having been refused such entry by the owner or occupier thereof, within the limits of the said town of Boston or the harbour thereof, for the purpose of examining into, destroying, removing or preventing any nuisance, source of filth, or cause of sickness aforesaid, which said board have reason to believe is contained in such building or vessel—any member of said board, by order of said board, may apply to any Justice of the Peace, within and for the County of Suffolk, and on oath complain and state, on behalf of said board, the facts as far as said board have reason to believe the same relative to such nuisance, source of filth or cause of sickness aforesaid ; and such Justice shall thereupon issue his warrant, directed to the sheriff of the County of Suffolk, or either of his deputies, or any constable of the town of Boston, therein requiring them or either of them, taking with them sufficient

aid and assistance, and also in company with said Board of Health, or some two members of the same, between the hours of sun rise and sun set, to repair to the place where such nuisance, source of filth or cause of sickness complained of as existing as aforesaid; and there, if found, the same to destroy, remove or prevent, under the directions and agreeable to the order of said Board of Health, or such members of the same, as may attend and accompany such officer for such purpose: *Provided, however,* that no sheriff or deputy sheriff shall execute any civil process, either by arresting the body or attaching the goods and chattels of any person or persons under colour of any entry made for the purposes aforesaid, unless such service could by law have been made without such entry; and all services so made, under colour of such entry, shall be utterly void, and the officer making such service shall be considered as a trespasser to all intents *ab initio*. And in all cases where such nuisance, source of filth, or cause of sickness shall be removed, destroyed or prevented in manner aforesaid, the cost of so removing, destroying, or preventing the same, together with all costs attending the proceedings relative thereto, shall be paid by the person or persons who caused or permitted the same nuisance, source of filth, or cause of sickness to exist, or in whose possession the same may be found. And in all cases where any contagious and malignant disorder exists, within the limits of the town of Boston, or on board of any vessel, or on any island within the harbour of Boston, and it appearing to said Board of Health, after the same has been examined into by the Physician of said board, or some other respectable Physician of the town of Boston, that the public safety requires that any person or persons affected with any contagious, malignant disorder, should be removed to the Hospital on Rainsford Island, or to any other place within the limits of said town of Boston, on any island in the harbour of Boston, or should be confined or remain in the place where such person or persons thus affected then are; in every such case the said Board of Health shall pass an order relative to the same, which order, all persons, dwelling in or occupying such place, building or vessel, notified thereof by said board, or called on by said board, shall be obliged to obey; and any person refusing to obey such order, or resisting any officer or person acting under the authority of said board, or any member of said board, in any of the duties or requirements in this section of this act, shall severally forfeit and pay for such offence a sum not less than five, and not exceeding five hundred dollars, according to the nature and aggravation of the offence.

[11] SEC. 3. *Be it further enacted*, That the said Board of Health shall have power to make such rules, orders and regulations, from time to time, for the preventing, removing, or destroying of all nuisances, sources of filth and causes of sickness within the limits of the town of Boston, or on board any vessel, or on any island in the harbour of Boston, which they may think necessary ; which rules, orders and regulations, from and after the same have been published in two newspapers, printed in the town of Boston, shall continue in force and be obeyed by all persons, until changed, altered or repealed by the same board who made them, or by some succeeding Board of Health. And any person or persons who disobey or violate any such rules, orders or regulations, so as aforesaid made by such board, shall severally forfeit and pay for such offence, a sum not less than one, and not more than fifty dollars, according to the nature and aggravation of such offence.

[12] SEC. 4. *Be it further enacted*, That the said Board of Health shall have power so seize, take and destroy, or to remove to any safe place without the limits of the town of Boston, or cause the same to be done, any unwholesome and putrid or tainted meat, fish, bread, vegetable or other articles of the provision kind, or liquor, which in their opinion, first consulting the Physician of said Board, or some other respectable physician of the town of Boston, shall not be fit for food and nourishment, and injurious to the health of those who might use the same : and the cost of such seizing, taking, destroying or removing shall be paid for by the person or persons in whose possession the same unwholesome, putrid, or tainted articles shall or may be found.

[13] SEC. 5. *Be it further enacted*, That the said Board of Health shall have power, from time to time, to make and establish all such rules, orders and regulations relating to clothing or any article capable of containing or conveying any infectious disease, or creating any sickness, which may be bought into, or conveyed from, the town of Boston, or into or from any vessel, or on or from any island in the harbour of Boston, as they shall think proper for public safety, or to prevent the spreading of any dangerous or contagious disease. And all such rules, orders and regulations, so as aforesaid by said board made and established, shall be obeyed by all persons, from and after the same have been published in two of the newspapers, printed in the town of Boston, and shall continue to be in full force until altered or repealed by the board who made and established the same, or some other succeeding board ; and every person who shall disobey or violate any of such rules, orders and regulations, shall forfeit and pay a sum not less than one dollar,

and not more than one hundred dollars, according to the nature and aggravation of such offence.

[14] SEC. 6. *Be it further enacted*, That the said Board of Health shall have power to establish and regulate the Quarantine to be performed by all vessels arriving within the harbour of the town of Boston; and for that purpose shall have power, from time to time, to establish, make and ordain all such orders, rules and regulations relating to said quarantine, as said board shall think necessary for the safety of the public and the security of the health of the inhabitants of the said town of Boston; which said rules, orders and regulations, so as aforesaid established, made and ordained, shall be obeyed by all persons and shall continue to be in force from and after the same shall have been published in two newspapers, printed in the town of Boston, until the same are altered or repealed by the said board establishing, making and ordaining the same, or by some succeeding Board of Health. And said rules, orders and regulations may extend as well to all persons arriving in such vessels, and to their property and effects aboard such vessels, and to all such persons as may visit, or go on board such vessels, after their arrival in said harbour of Boston, and to the cargo of all such vessels, as to the vessels themselves; as also to every matter and thing relating to, or connected with such vessel, or the cargo of the same, or to any person or persons going on board or returning from the same; and every person who shall knowingly or wilfully violate or disobey any of such rules, orders and regulations, so as aforesaid made, established or ordained by said Board of Health, shall severally forfeit and pay a sum not less than five dollars and not exceeding five hundred dollars, according to the nature and aggravation of such offence. And the Board of Health shall have power at all times, to cause any vessel arriving in the harbour of Boston, which is foul and infected, or whose cargo is foul and affected with any malignant and contagious disease, to be removed and placed on quarantine ground, and the same to be thoroughly cleansed and purified at the expense and charge of the owners, consignees or possessors of the same; and also all persons arriving in or going on board such infected vessel, or handling such infected cargo, to be removed to Hospital or Rainsford Island, under the care of said board, and to the Hospital on the same, there to remain under the orders and regulations of said board. All expenses incurred on account of any person under the quarantine rules, orders and regulations of said Board of Health, shall be paid by such persons.

[15] SEC. 7. *Be it further enacted*, That said Board of Health shall have power, and it shall be their duty to elect and



appoint a principal Physician to said board, who shall reside in Boston, and an assistant Physician, who shall, during the time of quarantine, reside on Hospital Island, also an Island-Keeper, to reside on said Hospital Island, boatmen and such other officers and servants as will be necessary to carry into effect the rules, orders and regulations of said Board of Health, as it respects the quarantine; and shall prescribe to them their duty, and establish their salary and fees, and displace or remove them at pleasure, and elect and appoint others in their places; also said board shall, from time to time, establish and regulate the fees or expenses attending the said quarantine regulations, shall have the care of said Rainsford or Hospital Island, and the Hospital on the same, and of all property on said Island and belonging to or connected with the Hospital on the same; and shall annually in the month of January in each year, file in the Secretary's Office of this Commonwealth, an exact and true account of the state of the property in and connected with the Hospital establishment on said Island, and of the property belonging to the Commonwealth on said Island, and of all money expended thereon.

[16] SEC. 8. *Be it further enacted*, That said Board of Health shall have power to elect and appoint scavengers, superintendents of burying grounds, funeral porters or undertakers, and such other officers and servants, as shall be necessary to carry into effect all the powers and duties in this act given to or required of, the said Board of Health, and to affix and establish their fees of office or compensation; and all officers elected or appointed by said board, shall be removeable from their said offices, at the pleasure of said board, and others substituted, elected or appointed in their place. And a majority of said board shall be competent to transact any business which the whole board, were they all present, might or could transact.

[17] SEC. 9. *Be it further enacted*, That all the powers and duties which are given to, or required of the Selectmen of the town of Boston, by a law of this Commonwealth, passed the twenty second day of June, in the year of our Lord one thousand seven hundred and ninety seven, entitled, "An act to prevent the Spreading of Contagious Sickness," and by the several acts in addition thereto, shall be and they hereby are transferred to and made the duty of the Board of Health of the town of Boston, any thing in said laws to the contrary notwithstanding. [*And for all expenses which may arise in the execution of their duty, the said Board of Health shall be authorized to draw upon the Town Treasurer of the town of Boston; and the accounts of said Board including all receipts and expenditures of money shall be examined by the Committee*

of accounts annually chosen by said town of Boston for that purpose, who shall report a state of them to the said town accordingly, and the same shall be paid by the Treasurer of said town of Boston. And on the death or resignation of any Member of said Board of Health, the said Board may cause such vacancy to be filled by a new election from the Ward from which said Member was elected, by directing the Clerk of such Ward to call a meeting of the inhabitants of such Ward, qualified to elect a Member of the Board of Health, to meet at such time and place, as shall be notified to him by said Board; at which meeting such vacancy shall be filled, and such proceedings be had as are directed in the first section of this act, as to the choice and return and notification of the person elected as a Member of said Board as aforesaid.]

[Irrelevant since the organization of the City Government.]

[18] SEC. 10. *Be it further enacted,* That whenever any prisoner confined in the gaol in Boston, or within the limits of said prison, shall be attacked with any contagious, malignant disorder, which, in the opinion of said Board of Health, first having consulted with the Physician of said board or some other respectable Physician of the town of Boston, endangers the safety and the health of the other prisoners, in said gaol, or the inhabitants of said town, and that the suffering such prisoners, so attacked as aforesaid, longer to remain in said gaol, or within the limits of said prison, is not consistent with the public safety, or the health of the inhabitants of said town, or the prisoners in said goal; in every such case, the said Board of Health shall make application in writing to any two Justices of the Peace, *quorum unus*, therein stating the facts relative to such case; and the said Justices to whom such application shall be made, shall examine into such case, and if satisfied that the facts stated are true, shall issue their warrant to said Board of Health, authorizing and directing them to remove said prisoner so attacked with such contagious and malignant disorder, to the Hospital on Rainsford Island, or to some other place of safety, there to remain under the directions of said board, until such prisoner either recovers or dies; and in case of recovery, then to be returned by said board to the place from which he was taken; and such warrant so executed by said board or any member thereof, shall be by them returned, with their doings thereon, into the Clerk's office of the court, from which the process for committing such prisoner to gaol, shall have issued; and the place to which such prisoner shall be removed by virtue of such order, shall be considered as the gaol of the County of Suffolk; and every prisoner removed as aforesaid, for the causes aforesaid, shall not thereby be considered as hav-

ing committed any escape, so as to prejudice either himself, his bondmen, or the persons who had the custody of him in his confinement aforesaid.

[19] SEC. 11. *Be it further enacted*, That the said Board of Health of the town of Boston are hereby authorized and empowered, from time to time, to make and establish rules, orders and regulations for the interment of the dead in said town, to establish the police of the burying grounds, appoint and locate the places where the dead may be buried in said town, and cause the places for the deposit of the dead in said town, and the burying grounds, to be repaired and property enclosed. Also, to make regulations for funerals and funeral processions, and appoint all necessary officers and persons to carry the same into effect, and to appoint to them their duties and fees; and shall also have the power to establish such penalties for the violation of any such rules, orders and regulations, as they may think proper: *Provided*, no one penalty for any one violation. shall exceed the sum of fifty dollars. And all such rules, orders or regulations, so as aforesaid made and established by said board, shall be obeyed by every person, from and after the same have been published in two of the newspapers printed in Boston, and shall continue in full force, until the same are altered or repealed by the said board, who made and established them, or by some succeeding board.

[20] SEC. 12. *Be it further enacted*, That the said Board of Health shall have power to grant permits for the removal of any nuisance, infected article, or sick person, within the town of Boston, when they think it safe and proper so to do; and said board, whenever they think justice requires it, may stop, discontinue, discharge or compromise any suit, complaint or information, originating under this act. And all fines, forfeitures, penalties, sums to be paid or recovered, arising under any of the provisions of this act, shall be prosecuted for, by and in the name of "The Board of Health of the town of Boston," by complaint or information by said board, to be made in writing to some Justice of the Peace within and for the County of Suffolk; which said Justice, upon said complaint or information being made to him as aforesaid, shall receive the same, and thereupon issue his warrant, therein reciting the said complaint or information, directed to the sheriff of the County of Suffolk or either of his deputies, or any constable of the town of Boston, commanding them or either of them, to summon the party informed against or complained of, to appear before him at a time and place to be named in said warrant, to shew cause, if any they have, why they should not pay the sum demanded of them in such complaint or information: which said warrant,

shall by the officer who receives the same, be served on the party informed or complained against as aforesaid, at least seven days before the day in said warrant stated, as the said day of trial, by giving such party in hand a copy of such warrant, reading the same to him, or leaving the copy thereof at the last and usual place of the abode of such party; and if such party shall not appear at the time and place appointed, or appearing shall not show sufficient cause as aforesaid, the said Justice shall proceed to render judgment in every such case, that the said Board of Health shall recover such sum in damages or as fine, as the case may be, as according to the provisions of this act, they ought by law to recover, with costs, and shall proceed to issue his execution therefor, in the same manner as executions issue from Justices of the Peace in civil cases triable before them; and such executions shall be served and made returnable in the same manner as executions in civil actions are by law served, and made returnable, which issue on judgments rendered in the Supreme Judicial Court of this Commonwealth:—*Provided, however*, that in all such prosecutions as aforesaid, if the said Board of Health shall discontinue such prosecution or become nonsuit, or the same on the merits should be decided by such Justice trying such prosecution against them, in every such case the said party informed against and complained of, shall recover his legal costs against said board, which costs shall be paid by the Treasurer of the town of Boston. And in every prosecution under this act, before any Justice of the Peace as aforesaid, the party complained against in such prosecution, being dissatisfied with the judgment in the same, given by said Justice, may appeal therefrom to the Boston Court of Common Pleas, next to be holden at Boston, within and for the County of Suffolk, after such judgment is so as aforesaid given, or rendered by such Justice: *Provided*, such appeal be entered within twenty-four hours after such judgment is given as aforesaid; and the same proceedings in all respects relating to such appeal, shall be had as by law required on appeals from judgments rendered in civil causes by Justices of the Peace in this Commonwealth; and on the entry of such appeal in said court, the said court shall have cognizance and jurisdiction of the same, and shall proceed to hear and determine the same in the same manner, and award execution in the same way and manner as they have cognizance and jurisdiction, proceed to hear and determine and award execution in civil causes, on appeals to them for judgments given by Justices of the Peace in this Commonwealth. And in all cases of such appeals on prosecutions under this act, the party prevailing in the said court shall recover his costs, to be paid

in the manner prescribed in this section of this act: *Provided, however,* that no appeal shall be allowed or granted to said court in any prosecution under the provisions of this act, where the amount of the judgment rendered and had before, and by any Justice of the Peace, shall not amount to more than five dollars exclusive of costs. And all fines and forfeitures recovered by said Board of Health, under the provisions of this act, shall enure to the use of the inhabitants of the town of Boston, and be accounted for by said Board of Health, to and with the town Treasurer of said town of Boston: *And provided, also,* that in consequence of said appropriation of said fines and forfeitures, or the appropriation of any other moneys by virtue of this act, no inhabitant of the said town of Boston shall be disqualified as a Justice of the peace, a witness or juror in any prosecution under this act, nor shall the said Board of Health or any member of the same, or any officer of the same, be rendered thereby incompetent witnesses in any prosecution under this act; and the members of said Board of Health, while they continue in such office, shall be exempted from all militia duty and every other duty and service, which by law the selectmen of towns in this Commonwealth are exempted from: and all laws heretofore made relating to a Board of Health in the town of Boston, so far as they are inconsistent with or contrary to the provisions of this act, shall be, and the same are hereby repealed: *Provided, however,* that the election of the present Board of Health for the said town of Boston, and all their doings under the said laws are hereby confirmed, and they shall have and exercise all the powers and duties required or permitted by this present act: *And provided, also,* that all prosecutions now pending, shall be proceeded in, in the same way and manner as though this act had never been passed. And in all prosecutions under this act, the persons prosecuted, may plead the general issue, and give any special matter in evidence under the same; and the complaint, information, pleadings or proceedings in any prosecutions under this act, may by leave of court, before whom the same is, or may be pending, be amended in any state of such prosecution, without the payment of costs by either party.

Extract from the "act to establish the Boston and Roxbury Mill Corporation. [*Passed June 14, 1814.*]

[21] SEC. 5. *Be it further enacted*, That the Board of Health of the town of Boston, be, and hereby is authorized and empowered to cause the flats on the Westerly side of Boston within said empty bason or any portion of them, to be kept constantly covered with water, if in the opinion of said board, it shall be necessary to the health of the inhabitants of said town; and for that purpose to cause a dam of a suitable height, at their discretion, to be placed and kept at the sluice gate or gates in the principal dam of said empty bason, in order to retain the water therein, at the sole expense of said Corporation.

Extract from "an Act concerning the regulation of the House of Correction in the City of Boston, and concerning the form of actions commenced under the By-laws of said city, and providing for filling vacancies in the Board of Aldermen."

[*Passed June 12, 1824.*]

[22] SEC. 4. *Be it further enacted*, That all fines, penalties and forfeitures, accruing under a statute of this Commonwealth, passed the twentieth day of June, in the year of our Lord, one thousand eight hundred and sixteen, entitled "An act to empower the town of Boston, to choose a Board of Health, and to prescribe their power and duty," or accruing under any rules, regulations, by-laws, or ordinances, which have been, or hereafter shall be passed by the City Council of the City of Boston, in relation to the Health of the said city, or of the inhabitants thereof, shall be sued for, prosecuted and recovered by complaint or information, before the Justices of the Justices' Court for the County of Suffolk, in the name of the City of Boston, by any officer or person authorized to institute the same, and in the manner prescribed in the statute above mentioned, and such fines, penalties, and forfeitures, shall enure, and be recovered for the use of the said city; and no person shall be disqualified from acting as a magistrate, juror, or witness, in any such suit or prosecution by reason of any interest which he may have as an inhabitant of the said city, in the sum or sums of money to be recovered thereby.

[23] SEC. 5. *Be it further enacted*, That in all prosecutions by complaint, before the Police Court for the City of

Boston, founded on the special acts of the Legislature, the by-laws of the town of Boston, or the ordinances or by-laws of the City of Boston, it shall be sufficient, to set forth in such complaint, the offence, fully and plainly, substantially and formally, and in such complaint, it shall not be necessary to set forth such special act, by-law, ordinance, or any part thereof.

Extracts from "An act establishing the City of Boston."
[*Passed Feb. 23, 1822.*]

[24] SEC. 17. *Be it further enacted*, That all the power and authority now by law vested in the Board of Health for the town of Boston, relative to the quarantine of vessels, and relative to every other subject whatever, shall be, and the same is hereby transferred to, and vested in the said City Council, to be carried into execution by the appointment of Health Commissioners, or in such other manner as the health, cleanliness, comfort, and order of the said city may, in their judgment, require, subject to such alterations as the Legislature may from time to time adopt.

[25] SEC. 28. *Be it further enacted*, That so much of the act heretofore passed, relative to the establishment of a Board of Health for the town of Boston, as provides for the choice of members of the said Board, and so much of the several acts relative to the assessment and collection of taxes within the town of Boston, as provides for the election of Assistant Assessors, also all such acts, and parts of acts, as come within the purview of this act, and which are inconsistent with, or repugnant to the provisions of this act, shall be, and the same are hereby repealed.

Extract from "An act to incorporate the Gas Light Company."
[*Passed Jan. 22, 1823.*]

[26] SEC. 3. "The Mayor and Aldermen for the time being, shall at all times have the power to regulate, restrict, and control the acts and doings of said corporation, which may, in any manner, affect the health, safety, or convenience of the inhabitants of said city."

Extract from "An act to empower the town of Boston to choose a Board of Health, and for removing and preventing nuisances." [*Passed June 20, 1799.*]

[27] SEC. 14. *And be it further enacted*, That the Board of Health for the town of Boston, shall provide, at the expense of said town, a suitable number of red flags of two yards at least in length; and whenever they shall order a vessel or vessels to Rainsford's Island, for the purpose of purification, they shall direct the keeper of said island to hoist on a flag-staff, to be erected for the purpose, one of said flags; and the master of every vessel ordered there to perform quarantine, shall hoist one of said flags on the head of the mainmast, there to be kept during the day time, so long as said vessel or vessels shall remain at said island for the purpose of purification; and during the time that any vessel is performing quarantine, no person shall go on board thereof, except those employed by or under the Board of Health, nor shall any person go within a line to be designated upon the land on Rainsford's Island; and every person who shall transgress in either of these cases, shall be considered as contaminated with infection, and held to undergo purification in the same manner, and under the same regulations and restrictions, as those performing quarantine on said island, and shall there remain until discharged by the visiting Physician; and the said Physician, or the keeper of the said island, or any person employed thereon, may forcibly detain him for the purpose aforesaid.

An act more effectually to protect the Sepulchres of the Dead, and to legalize the Study of Anatomy in certain cases.

[*Passed Feb. 28, 1831.*]

[28] SEC. 1. *Be it enacted by the Senate and House of Representatives in General Court assembled and by the authority of the same*, That if any person, not being authorized by the Board of Health, Overseers of the Poor, or Selectmen, in any town of this Commonwealth, or by the Directors of the House of Industry, Overseers of the Poor, or Mayor and Aldermen of the City of Boston, in said Commonwealth, shall knowingly or wilfully dig up, remove or convey away, or aid and assist in digging up, removing, or conveying away, any human body, or the remains thereof, such person or persons so offending, on conviction of such offence, in the Supreme Judicial

Court of this Commonwealth, shall be adjudged guilty of felony, and shall be punished by solitary imprisonment for a term not exceeding ten days, and by confinement afterwards to hard labor for a term not exceeding one year, or shall be punished by a fine not exceeding two thousand dollars, to enure to the benefit of the Commonwealth, and by imprisonment in the common jail for a term not exceeding two years, at the discretion of the court, according to the nature and aggravation of the offence.

[29] SEC. 2. *Be it further enacted*, That if any person shall be in any way, either before or after the fact, accessory to the commission, by any person or persons, of the offence described in the first section of this act, such person or persons shall be adjudged and taken to be principals, and shall be, on conviction in the court aforesaid, subject to the same punishments and forfeitures as are in said first section provided.

[30] SEC. 3. *Be it further enacted*, That from and after the passing of this act, it shall be lawful for the Board of Health, Overseers of the Poor, and Selectmen of any town in this Commonwealth, and for the Directors of the House of Industry, Overseers of the Poor, and Mayor and Aldermen of the City of Boston, in said Commonwealth, to surrender the dead bodies of such persons, except town paupers, as may be required to be buried at the public expense, to any regular physician, duly licensed according to the laws of this Commonwealth, to be by said physician used for the advancement of anatomical science, preference being always given to the medical schools that now are, or hereafter may be by law established in this Commonwealth, during such portions of the year as such schools, or either of them, may require subjects for the instruction of medical students, provided, always, that no such dead body shall in any case be so surrendered, if within thirty-six hours from the time of its death, any one or more persons claiming to be kin, friend, or acquaintance to the deceased, shall require to have said dead body inhumed, or if it be made to appear to the Selectmen or Overseers of the Poor of any town in this Commonwealth, or to the Mayor and Aldermen or Overseers of the Poor of the City of Boston, that such dead body is the remains of a stranger or traveller, who suddenly died before making known who or whence he was, but said dead body shall be inhumed, and when so inhumed, any person disentering the same for purposes of dissection, or being accessory, as is described in the second section of this act, to such exhumation, shall be liable to the punishments and forfeitures in this act respectively provided : and provided further, that every physician so receiving any such dead body, before it be lawful to deliver

him the same, shall, in each case, give the Mayor and Aldermen of the City of Boston, or the Selectmen of any town of this Commonwealth, as each case may require, good and sufficient bond or bonds, that each body by him so received shall be used only for the promotion of anatomical science, that it shall be used for such purpose only in this Commonwealth, and so as in no event to outrage the public feeling, and that after having been so used, the remains thereof shall be decently inhumed.

[31] SEC. 4. *Be it further enacted*, That, from and after the passing of this act, it shall be lawful for any physician duly licensed according to the laws of this Commonwealth, or for any medical student, under the authority of any such physician, to have in his possession, to use and employ, human dead bodies, or the parts thereof, for purposes of anatomical inquiry or instruction.

[32] SEC. 5. *Be it further enacted*, That nothing in this act shall be so construed as to give to the Board of Health, Overseers of the Poor, or Selectmen of any town in this Commonwealth, or to the Directors of the House of Industry, Overseers of the Poor, or Mayor and Aldermen of the City of Boston, in said Commonwealth, any power to license the digging up of any dead human body, or the remains thereof, other than was possessed by them before the passing of this act, or is given them by the third section of this act.

[33] SEC. 6. *Be it further enacted*, That the act passed March 2, 1815, entitled, "An act to protect the Sepulchres of the Dead," and also all other acts or parts of acts, contravening the provisions of this act, be, and the same hereby are repealed.

CHAPTER XXIV.

Health.

ORDINANCES OF THE CITY.

PART I. RELATING TO NUISANCES.

[34] *Duty of City Marshal as regards the health of the City.*

[35] *Consulting physicians to be appointed.*

[36] *Sick persons to be removed and houses vacated.*

[37] *Every tenement to have a vault, &c.*

[38] *Penalty for not having the same.*

[39] *Mayor, &c. upon notice and refusal may cause the same to be made.*

[40] *Tenements not having vaults, &c. or crowded with occupants to be vacated.*

[41] *Vaults, how to be made.*

[42] *Vaults, how to be emptied and when.*

[43] *Drains for Waste water to be under ground.*

[44] *Vacant lots, &c. nuisances to be removed from..*

[45] *House offal, how to be kept.*

[46] *House offal, by whom to be removed.*

[47] *Filth, &c. not to be thrown into the streets, &c.*

[48] *Owners, occupants, &c. liable.*

[49] *Filth to be removed from houses, &c. at expense of owner and occupants.*

[50] *Unwholesome provisions, &c. not to be kept.*

[51] *Fish how be kept and sold.*

[52] *Fish, where not to be sold.*

[53] *Appendages of vegetables not to be brought into the City.*

[54] *Swine, when prohibited.*

[55] *Livery stables, to regulate.*

[56] *Damaged grain not to be brought into the City.*

[57] *City Marshal, notices from to be renewed.*

[58] *City Marshal to enter houses.*

[59] *Penalties.*

[60] *Repealing clause.*

An Ordinance prescribing Rules and Regulations relative to nuisances, sources of filth, and causes of sickness, within the City of Boston. [*Passed Oct. 7, 1833.*]

[34] SEC. 1. *Be it ordained by the Mayor, Aldermen, and Common Council of the City of Boston, in City Council assembled, That the department of internal and external police,*

as far as it regards the preservation of the health of the City, be placed under the superintendence of the City Marshal; whose duty it shall be, and he shall have power, to carry into execution, all the ordinances, rules and laws made by the City Council, relative to causes of sickness, nuisances, and sources of filth, that may be injurious to the health, or may affect the comfort of the inhabitants of the City, which do or may exist within the limits thereof; subject always to the direction, authority and control of the Mayor and Aldermen; and it shall be the duty of the City Marshal to cause all such nuisances, sources of filth, and causes of sickness, to be prevented, removed, or destroyed, as the case may require, conformably to the ordinances of the City Council, as aforesaid, and the laws of the Commonwealth; and to this department shall belong the care of the streets, the care of the common sewers, and the care of the vaults, and whatever else affects the health, security, and comfort of the City, from causes or means arising or existing within the limits thereof.

[35] SEC. 2. *Be it further ordained*, That in the month of May or June annually, there shall be appointed, by concurrent vote of the City Council, five consulting physicians, whose duty it shall be in case of an alarm of any contagious, infectious, or other dangerous disease occurring in the City or neighborhood, to give to the Mayor or either Board of the City Council all such professional advice and information as they may request, with a view to the prevention of the said diseases, and at all convenient times to aid and assist them with their counsel and advice in all matters that relate to the preservation of the health of the inhabitants.

[36] SEC. 3. *Be it further ordained*, That the Mayor and Aldermen shall have power to remove or cause to be removed from any dwelling-house or other place within said City, any person or persons, sick with any contagious or infectious disease, or any person who may have been exposed to such contagious or infectious disease, to any hospital or place within the City, or to any island within the harbor, proper for the reception of such sick and exposed persons: Provided a majority of the consulting physicians shall give their opinion in writing, to said Mayor and Aldermen, that such removal is necessary and expedient, for the safety of the inhabitants. And in case any person sick with such contagious or infectious disease, in any house or other place within said City, cannot in the opinion of said physicians, be removed, then the Mayor and Aldermen shall have power to cause any house or tenement contiguous thereto, to be vacated, by the removal of the occupants thereof, for such time as said physicians or a major-

ity of them shall think expedient, and the safety of the inhabitants may require.

[37] SEC. 4. *Be it further ordained*, That each and every tenement within the City of Boston, that is, or may hereafter be used as a dwelling-house, shall be furnished with a sufficient drain under ground, to carry off the waste water, and also with a suitable privy, the vault of which shall be sunk under ground, and be built in the manner hereinafter prescribed; and of a sufficient capacity in proportion to the number of inhabitants of such tenement—which privy and vault and drain shall be in common and subject to the use of all said inhabitants.

[38] SEC. 5. *Be it further ordained*, That for any offence against the provisions of the foregoing section, the owner or owners of each and every tenement so used, as aforesaid, shall forfeit and pay a sum not less than five dollars nor more than twenty dollars, for each and every week during which said tenement or any part thereof shall be used as a dwelling-house.

[39] SEC. 6. *Be it further ordained*, That if the Mayor and Aldermen shall at any time be satisfied that any tenement used as a dwelling-house, is not provided with a suitable privy and vault and drain, or either of them as aforesaid, they may give notice in writing to the owner thereof or his agent, if either be an inhabitant of the City, or if otherwise, public notice in two newspapers printed in Boston, requiring such owner or agent, within such time as they shall appoint, to cause a proper and sufficient privy and vault and drain to be constructed for such tenement, to be common and subject to the use of all the inhabitants thereof; and in case of neglect or refusal to obey such notice, the Mayor and Aldermen shall have power to cause such privy and vault and drain to be made for such tenement, the expense of which shall be paid by such owner or agent.

[40] SEC. 7. *Be it further ordained*, That whenever upon due examination it shall appear to the Mayor and Aldermen, that the number of persons occupying any tenement or building in the City is so great as to be the cause of nuisances and sickness, and the source of filth; or that any tenements or buildings are not furnished with vaults constructed according to the provisions of this ordinance, and sufficient privies, and drains under ground, for waste water; it shall be the duty of the Mayor and Aldermen, and they are hereby authorized and empowered to remove such persons or occupants, or any of them, from such tenement or building. And the Mayor and Aldermen shall thereupon issue their notice, in writing, to such

persons or any of them, requiring them to remove from and quit such tenement or building within such time as the Mayor and Aldermen shall deem reasonable. And if the person or persons so notified, or any of them, shall neglect or refuse to remove from and quit such tenement or building within the time mentioned in such notice, the Mayor and Aldermen are hereby authorized and empowered, thereupon forcibly to remove such person or persons from the same.

[41] SEC. 8. *Be it further ordained*, That all the vaults or privies shall be so constructed that the inside of the same shall be at least two feet distant from the line of every adjoining lot, unless the owner of said adjoining lot shall otherwise agree and consent, and also from every street, lane, alley, court, square, or public place, or public or private passage way ; that there shall be no communication between any vault or privy and any common sewer or drain, by which the solid contents of such vault or privy can pass into said sewer or drain ; that every vault shall be made tight so that the contents thereof cannot escape therefrom ; and that said contents shall never be within two feet of the surface of the earth: *Provided, however*, that the Mayor and Aldermen are hereby authorized to permit, under such restrictions as they shall deem expedient, the construction of sufficient passage ways or conduits under ground, for the purpose of conveying the fluid contents of any of the vaults aforesaid into a common sewer or drain. That whenever any vault or privy shall become offensive, the same shall be cleansed.— And the owner, or his agent, or the occupant of the land, in which any vault or privy may be situated, the state and condition of which shall be in violation of the provisions of this ordinance, shall remove, cleanse, alter, amend, or repair the same, within a reasonable time after notice in writing to that effect, given by the Mayor, any Alderman, the City Marshal, or the Commissioner of Health. And in case of neglect or refusal, the same shall be performed by the Mayor and Aldermen, at the expense of the owner, agent, or occupant aforesaid.

[42] SEC. 9. *Be it further ordained*, That no vault or privy shall be emptied, without a permit from the City Marshal, or his deputy ; nor in any other mode, or at any other time, than he shall direct and appoint, conformable to such regulations as the Mayor and Aldermen, from time to time shall make on the subject. And no vault shall be opened between the fifteenth day of June, and the fifteenth day of September, in each year ; unless on inspection caused to be made, the Mayor and Aldermen shall be satisfied that the

same is absolutely necessary for the health or comfort of the inhabitants. And in such case, no more of such contents shall be taken away, than shall be deemed absolutely necessary for present safety and relief, and with such precautions relative to the preventing of any offensive effluvia, as the Mayor and Aldermen shall direct; all the expenses of which shall be borne by such owner, agent, or occupant, and which shall never be less than double the amount charged during any other months in the year.

[43] SEC. 10. *Be it further ordained*, That all waste water shall be conveyed through sufficient drains under ground, to a common sewer, or to such reservoir, sunk under ground, as shall be approved by the City Marshal. And no person shall suffer any waste or stagnant water to remain in any cellar or upon any lot or vacant ground by him owned or occupied.

[44] SEC. 11. *Be it further ordained*, That whenever it shall appear to the Mayor and Aldermen, that any cellars, lots, or vacant grounds are in a state of nuisance, or so situated that they may become a nuisance, and the health of the inhabitants be endangered, it shall be their duty and they are authorized to cause a notice in writing to be served upon the owners or occupants thereof, and if there should be no occupants and the owners should not reside in the City, then to give public notice by advertising in two of the newspapers printed in said City, directing said owners or occupants to have said nuisance or cause of nuisance removed, by draining, filling up, or otherwise, in the manner as may be prescribed in such notice; and in case of neglect or refusal to obey said notice, the Mayor and Aldermen shall have power to remove the same by filling up, draining, or otherwise, as they shall deem expedient, and said owners or occupants shall defray and pay the expense thereof.

[45] SEC. 12. *Be it further ordained*, That all house offal, whether consisting of animal or vegetable substance, shall be deposited in convenient vessels, and be kept in some convenient place, to be taken away by the City scavengers, which shall be done not less than twice in each week, and as much oftener as the Mayor and Aldermen shall direct.

[46] SEC. 13. *Be it further ordained*, That no person shall remove or carry through any of the streets, squares, lanes or alleys of the City, any house dirt, offal or animal or vegetable substances from any of the dwelling houses or other places, in any cart or other vehicle, unless such person so removing the same, together with the cart or other vehicle, in which the same shall be carried, shall be duly licensed for that purpose by the Mayor and Aldermen, upon such terms and conditions as the

said Mayor and Aldermen shall deem the health and interest of the City require.

[47] SEC. 14. *Be it further ordained*, That no person or persons, unless duly licensed by the Mayor and Aldermen, shall throw or deposit, or cause to be thrown or deposited in any street, court, square, lane, alley, public square or vacant lot, or into any pond, any dirt, sawdust, soot, ashes, cinders, shavings, hair, shreds, manure, oyster or lobster shells, waste water, rubbish or filth of any kind, or any animal or vegetable matter or substance whatever. Nor shall any person or persons throw or cast any dead animal, or any foul or offensive ballast, in any dock or place, between the channel and the shore. Nor shall any person land any such foul or offensive animal or vegetable substance within the City. Nor shall any person cast any dead animal into the channel without securing thereto a sufficient weight to prevent it from floating.

[48] SEC. 15. *Be it further ordained*, That if any of the substances in the preceding section mentioned, shall be thrown or carried from any house, ware-house, shop, cellar, yard, or other place, into any street, lane, alley, court, square, public place, or vacant lot, as well the owner of such house, or other place, whence the same shall have been thrown or carried, as the occupant thereof, and the person who actually threw and carried the same, shall severally be held liable for such violation of this ordinance ; and all such substances shall be removed from the street, lane, alley, court, square, public place, or vacant lot, by and at the expense of the owner or occupant of the house, or other place whence the same were thrown or carried, within two hours after personal notice in writing to that effect, given by the Mayor and Aldermen, the City Marshal or Commissioner of Health.

[49] SEC. 16. *Be it further ordained*, That all dirt, sawdust, soot, ashes, cinders, shavings, hair, shreds, manure, oyster or lobster shells, waste water, or any animal or vegetable substance, rubbish or filth of any kind, in any house, ware-house, cellar, yard, or other place, which the Mayor and Aldermen, or City Marshal shall deem it necessary for the health of the City to be removed, shall be carried away therefrom by and at the expense of the owner or occupant of such house or other place, where the same shall be found, and be removed to such place as he shall be directed within four hours after notice in writing to that effect, given by the Mayor any Alderman, the City Marshal or Commissioner of Health.

[50] SEC. 17. *Be it further ordained*, That no person shall sell or offer for sale, or have in his possession in any of the public or private markets, or in any other place, any un-

wholesome, stale or putrid meat, fish or fruit, or other articles of provisions ; or any meat which has been blown, raised or stuffed ; or any diseased or measly pork.

[51] SEC. 18. *Be it further ordained*, That no person shall bring into the City for sale, nor shall sell, nor offer for sale, any halibut, cod, haddock, or mackerel until the same shall be cleansed of their entrails and refuse parts, which shall be thrown overboard below low water mark, or be kept on board the vessels or boats in which the fish were brought, in a safe manner, and be removed below low water mark at every flowing of the tide. And that no person shall sell, nor offer for sale in the City, fish of any kind, unless the same be kept in covered stalls, fish boxes or other houses, which shall always be clean and in good order, or in clean covered carts or boxes well secured from the rays of the sun. And no person shall sell and deliver from any stall, fish box, cart or other place, any fish of any kind, except salmon and shad, and also flounders, smelts, and other small fish, until the same shall have been cleansed of their entrails and refuse part, which shall be kept in some tight vessel, and be removed below low water mark at least once every day.

[52] SEC. 19. *Be it further ordained*, That no person shall sell or offer for sale, fish, lobsters, oysters, or shell fish of any kind, in Market Square, Merchant's Row, South Market-street, North Market-street, or the street running from Long Wharf to Clinton-street, or in that part of Washington-street between Hayward Place and Kneeland-street, those parts of Kneeland, Beach, and Essex-streets, between Front and Washington-streets, nor in those parts of Boylston and Eliot-streets, between Tremont and Washington-streets, except by permission of the Mayor and Aldermen, and on such conditions as they shall order.

[53] SEC. 20. *Be it further ordained*, That no person hereafter shall bring into the City, or have in his possession for sale, or shall sell or offer for sale within the City, any vegetables whatever, (excepting green peas in the pods, and green corn in the inner husks,) which have not previously been divested of such parts or appendages as are not commonly used for food—and that no person shall have such parts or appendages in his possession, in any public or private market, or in any other place, cart, or vehicle in said city, used or occupied for the sale of vegetables or other articles of food.

[54] SEC. 21. *Be it further ordained*, That no swine or goats shall be kept within the limits of the City, without the license of the Mayor and Aldermen, and in such manner as they shall direct.

[55] SEC. 22. *Be it further ordained*, That the owners and occupants of Livery and other stables within the City, shall not wash or clean their carriages or horses, or cause them to be washed or cleaned in the streets, or public ways, nor otherwise encumber the same; they shall keep their stables and stable yards clean, and shall not permit more than two cart loads of manure to accumulate and remain in or near the same, at any one time between the first day of May and the first day of November; nor shall they within that period remove any manure, nor cause or suffer the same to be removed, except between the hours of twelve at night and two hours after sunrise.

[56] SEC. 23. *Be it further ordained*, That no persons shall land on any wharf or other place or shall otherwise bring into the City, any damaged grain, rice or coffee without a permit therefor from the Mayor and Aldermen, and in such manner as they shall direct.

[57] SEC. 24. *Be it further ordained*, That whenever any person shall have been duly notified to remove any nuisance, or to cleanse, alter or amend any vault, or drain, or to perform any other act or thing which it may be his duty to perform, in obedience to the laws of the Commonwealth, or the rules, orders, regulations, by-laws or ordinances for the preservation of the health of the City, which are now, or which hereafter shall be made by lawful authority, and the time limited to the performance of such duty shall have elapsed, without a compliance with such notice, the City Marshal shall issue new notices from time to time, to such delinquents, until the duty shall be executed, and the nuisance remedied or removed. And the Mayor shall cause all persons who shall violate or disobey the said health laws and regulations, to be forthwith prosecuted and punished. And in case, in the opinion of the Mayor and Aldermen, it shall be for the health or comfort of the inhabitants that any particular nuisance should be forthwith removed, and without delay, it shall be their duty to cause the same to be removed accordingly, at the expense of the owner or owners of the land upon which said nuisance exists.

[58] SEC. 25. *Be it further ordained*, That the City Marshal, or his deputy, or any person authorized by the Mayor for that purpose, shall and may at any time between sunrise and sunset, enter into any building within the City for the purpose of examining into, destroying, removing or preventing any nuisance, source of filth, or cause of sickness therein; or in any cellar belonging thereto. And if any person shall refuse to admit such officer, or other person so authorized, into said building, the City Marshal shall on oath, complain to the Jus-

tices of the Police Court, and shall apply for their warrant, according to the statute in such case made and provided, and shall thereupon proceed, under the authority of said Court, to examine such building or other place, and to destroy, remove, or prevent any nuisance, source of filth, or cause of sickness, that may be found there, in such manner as the Mayor and Aldermen shall direct. And the said City Marshal, or his deputy, or any person authorized as aforesaid, shall, and may at any time between sunrise and sunset, enter into any yard or lot of ground, or into any out house, and examine any alley, sink, cess-pool, privy, vault, public or private dock or slip, or drain, or sewer, and shall report to the Mayor and Aldermen all such as the health, or security of the City may require to be cleansed, altered, or amended.

[59] SEC. 26. *Be it further ordained,* That any person offending against any of the provisions of this Ordinance, shall forfeit and pay a sum not less than three or more than twenty dollars, to be recovered by complaint before the Justices of the Police Court, and in addition thereto, shall be liable to all the penalties provided by "An act of the Commonwealth to empower the Town of Boston to choose a Board of Health, and to prescribe their power and duty," and also, "An act concerning the regulation of the House of Correction in the City of Boston, and concerning the form of actions commenced under the By-Laws of said City, and for filling vacancies in the Board of Aldermen."

[60] SEC. 27. *Be it further ordained,* That "An Ordinance prescribing Regulations relative to nuisances, sources of filth, and causes of sickness within the City of Boston," and "An ordinance in addition thereto," "An ordinance regulating the removal of house offal in the City of Boston," "An ordinance regulating the sale of fresh fish," "An ordinance for the regulation of the sale of fish within certain streets and squares," "An ordinance to prevent the sale of unwholesome provisions," "An ordinance for the preservation of the health of the City," "An ordinance to prevent the bringing unwholesome or useless vegetable substances into the City," and "the several ordinances in addition thereto," and all other ordinances or parts of ordinances inconsistent with or repugnant to this, are hereby repealed.

CHAPTER XXIV.

Health.

ORDINANCES OF THE CITY.

PART II. — QUARANTINE.

[61] *Department of Quarantine confided to the Mayor and Aldermen, their duty prescribed.*

[62] *Resident Physician to be appointed, his power and duties prescribed.*

[63] *Resident Physician's salary.*

[64] *Island Keeper to be appointed, his duties and power prescribed.*

[65] *Island Keeper's salary.*

[66] *Quarantine, what vessels to be subject to.*

[67] *Quarantine, where to*

be performed, vessels when to be discharged.

[68] *Masters of vessels, their duty when discharged.*

[69] *Vessels not to be visited while in quarantine, line designated on the Island, not to be passed.*

[70] *Permits to visit the Island to be granted by Mayor and Aldermen.*

[71] *Skins, &c. from certain places not to be landed or removed from vessels, unless examined.*

[72] *Penalties.*

[73] *Repealing clause.*

An ordinance establishing and regulating the Quarantine of Vessels. [*Passed Aug. 10, 1833.*]

[61] SEC. 1. *Be it ordained by the Mayor, Aldermen and Common Council of the City of Boston, in City Council assembled, That the department of Quarantine shall be placed under the superintendence of the Mayor and Aldermen, and they shall have the sole and complete control of Hospital or Rainsford Island, and all the vessels lying at Quarantine there, and of all persons employed on said Island in whatever capacity the same may be, or on board said vessels. And it shall be their duty to take care that all the Ordinances of the City and Laws of the Commonwealth relating to the Quarantine of vessels be duly executed and enforced and that the property there, belonging to the City or Commonwealth is protected and preserved. And annually, in the month of January, in each year, to file in the Secretary's office of this Commonwealth, an exact and true account of the property in and connected with the Hospital establishment on said Island, and of all money ex-*

pended thereon. And it shall be likewise the duty of the Mayor and Aldermen to provide a suitable number of red flags, and whenever any vessel or vessels shall be ordered to Quarantine Island for purification, the Keeper of said Island shall hoist one of said flags on a flag-staff, to be erected for that purpose. And the master of every vessel ordered to perform quarantine, shall hoist one of said flags on the head of the main-mast, there to be kept during the day time, so long as said vessel or vessels shall remain at said Island.

[62] SEC. 2. *Be it further ordained*, That in the month of January, annually and as much oftener as the good of the city may require, a Resident Physician shall be chosen, by concurrent vote of the City Council, whose duty it shall be, to reside at Rainsford Island from the first day of June to the first day of October, in each year, and at such other times as the Mayor and Aldermen shall direct; to visit every vessel arriving, liable to Quarantine; to deliver a copy of these regulations to the master, and a flag to be carried by his vessel; to direct in what manner she shall be cleansed, if necessary, and what articles from her shall be landed, washed, buried or destroyed, and what articles of cargo may be unladen; to direct the care and attendance of the sick; for whom he shall prescribe and supply medicine, according to his best skill; to report every day to the Mayor and Aldermen, the situation of every sick person, or once a week if no person be sick; to direct the pilots where and in what particular place, vessels shall be anchored—(who are hereby required to obey such directions,) and to grant a certificate to any passenger by him discharged from quarantine, at any time before the discharge of the vessel, in which such passenger arrived, and to give a certificate to the master of each vessel, when in his discretion, he shall think proper, that such vessel be discharged from quarantine. And it shall also be the duty of said Resident Physician to report to the Mayor and Aldermen, the state and condition of said Rainsford Island, of the buildings thereon, of the vessels lying there, and of the accommodations provided and existing at said Island, for the ease and comfort of the sick, or of the quarantine of vessels, whenever he shall be thereunto required, by the Mayor and Aldermen, or whenever the said Resident Physician shall deem it expedient to make such report; and, also, to recommend, from time to time, such measures as he may deem expedient, for the better execution of the ordinances of the city, relative to the quarantine of vessels, or for the convenience and comfortable accommodation of persons under quarantine; and if, in any case, or at any time, the City Council, or either branch thereof, shall request of the said

Resident Physician, any information or advice, relative to the better preservation of the health of the city, it shall be his duty to furnish the same gratuitously.

[63] SEC. 3. *Be it further ordained*, That said Resident Physician shall receive such salary as the City Council may grant and authorize,—to be paid quarter yearly ; and he may also be allowed to charge sick persons for his attendance and medicine, in extraordinary cases, such reasonable sums, respectively, as the Mayor and Aldermen may approve ; and the said Resident Physician shall hold his office during the pleasure of the City Council.

[64] SEC. 4. *Be it further ordained*, That in the month of January, annually, and as much oftener as may be deemed expedient, there shall be appointed by concurrent vote of the City Council an Island Keeper, whose duty it shall be, to reside at Rainsford Island. And the said Island Keeper shall attend to the cleansing and purification of all persons, vessels, clothing, bedding, and other things at quarantine, agreeably to the directions of the Resident Physician ; he shall board and attend the sick, and provide nurses for them ; he shall communicate to the Mayor and Aldermen information of any event which may require the attendance of the Resident Physician and shall perform such other duties as may be required of him by the Mayor and Aldermen.

[65] SEC. 5. *Be it further ordained*, That said Island Keeper shall receive such salary as the City Council may grant and authorize, to be paid quarter yearly ; and shall be allowed to charge such reasonable sums for the board and nursing of each sick person, as the Mayor and Aldermen may determine.

[66] SEC. 6. *Be it further ordained*, That a quarantine shall be had of all vessels, their officers and crews, passengers and cargoes that come within the harbor of Boston, on board of which any person shall have died or been sick of any contagious, infectious or malignant disease, during the passage to Boston, or which are foul or infected after their arrival, or which are from or have brought their present cargo, or part thereof from any port or place where any infectious, contagious or malignant disease doth prevail or recently hath prevailed. *Provided, however*, that, in the latter case, public notice shall first be given by the Mayor and Aldermen of such fact of the prevalence of infectious, contagious or malignant disease.

[67] SEC. 7. *Be it further ordained*, That the said quarantine, shall be had and performed at an anchorage ground, near Rainsford Island, under the direction of the Resident Physician, and shall continue on every such vessel, until the

master shall receive a certificate from such Resident Physician, that he may be discharged : *Provided, however*, that in case of unreasonable delay, by the Resident Physician, to grant such certificate, the owner agent or consignee of such vessel, or of any part of her cargo, may apply to the Mayor and Aldermen who may, on being satisfied of the propriety of discharging such vessel from quarantine, issue such certificate ; and any passenger in such vessel, may be discharged by said Physician, from quarantine at any time.

[68] SEC. 8. *Be it further ordained*, That the master of every vessel discharged from quarantine, shall, within twenty-four hours after such discharge, deliver at the Mayor's office, the certificate and flag he shall have received of the Resident Physician, and pay the sum of ten dollars, for which he shall be entitled to a certificate from the City Clerk, to authorize his entry at the Custom House.

[69] SEC. 9. *Be it further ordained*, That during the time that any vessel is performing quarantine no person shall go on board thereof except those employed by or under the said Resident Physician. And no person shall go within a line upon the land on said Rainsford Island, to be designated by said Resident Physician, and every person who shall transgress in either of these cases shall be liable to be considered as contaminated with infection, and held to undergo purification, in the same manner and under the same regulations and restrictions as those performing quarantine on said Island and shall there remain until discharged by the Resident Physician, and the said Physician or the Keeper of said Island may forcibly detain him for the purposes aforesaid.

[70.] SEC. 10. *Be it further ordained*, That the Mayor and Aldermen may permit any person to visit Rainsford Island, during the time of quarantine, carrying a certificate from the Mayor or City Clerk : *Provided*, that such certificate shall be in force only on the day of its date, and the succeeding day. And without such permit, no person shall visit said island, or any vessel lying there, during the time of quarantine.

[71] SEC. 11. *Be it further ordained*, That skins, furs, rags, hair, carpets, and goods of woollen or cotton fabric, and feathers, arriving at the port of this city, from any port or place within the Straits of Gibraltar, or any port or place on the Atlantic coast of Africa, or eastern coast of South America, shall not be landed in this city, or be permitted to be removed from the vessel in which either of them shall be brought, before the same have been examined by the Resident Physician, or such other person as the Mayor and Aldermen shall appoint for that purpose, and purified in such

manner as said physician, or such other person as shall be appointed by the Mayor and Aldermen, as aforesaid, shall direct, and a permit granted for the same, by the said physician or other person appointed as aforesaid. And the said physician shall be entitled at any season of the year, to demand and examine the bill of health issued to any vessel arriving from any port where such documents are usually granted, to enable him the better to decide on the situation and purification of such vessel and her cargo.

[72] SEC. 12. *Be it further ordained*, That any person offending against any of the provisions of this Ordinance, shall forfeit and pay a sum not less than three nor more than twenty dollars, to be recovered by complaint before the Justices of the Police Court, and in addition thereto shall be liable to all the penalties provided by the several acts of the Commonwealth “to empower the town of Boston to choose a Board of Health, and to prescribe their power and duty,” and also “An act concerning the regulation of the House of Correction in the City of Boston, and concerning the form of actions commenced under the By-Laws of said City, and for filling vacancies in the Board of Aldermen.”

[73] SEC. 13. *Be it further ordained*, That “an ordinance establishing and regulating the Quarantine of vessels and for repealing a former ordinance upon that subject,” and all other ordinances and by-laws on the subject, be and the same are hereby repealed. Provided, however, that all officers appointed under any of said ordinances shall continue to hold their respective offices until others are appointed in their places.

CHAPTER XXIV.

Health.

ORDINANCES OF THE CITY.

PART III. INTERMENT OF THE DEAD.

[74] *Superintendent of Burials to be appointed, his power and duties, his clerks.*

[75] *Superintendent, time of appointment, salary*

[76] *Superintendent's duties particularly specified.*

[77] *Superintendent to grant permits to place grave stones, graves designated by stones to be reserved, &c.*

[78] *New ranges of graves, when to be commenced.*

[79] *Funeral cars, how and where to be kept.*

[80] *Funeral undertakers to be appointed, their powers and duties.*

[81] *Dead, not to be interred without license from Superintendent.*

[82] *Burials, when and how to be conducted, bells not to be tolled.*

[83] *Burial grounds, power to dig new graves in, specified.*

[84] *Fees for burials specified.*

[85] *Dead, how to be removed from the City.*

[86] *Dead not to be removed within the City or broken up.*

[87] *Graves, &c. when not to be opened except for interments.*

[88] *Penalties.*

[89] *Repealing clause.*

An Ordinance to regulate the Interment of the Dead.

[*Passed Sept. 26, 1833.*]

[74] SEC. 1. *Be it ordained by the Mayor, Aldermen, and Common Council of the City of Boston, in City Council assembled, That the department relative to the interment of the dead, shall be placed under the control of one superintendent, to be called the Superintendent of Burials, whose duty it shall be, and he shall have power, to carry into execution all the power and authority vested in the City Council, relative to the interment of the dead, the establishment of the police of the cemeteries, and burying grounds, and the regulation of funerals, and funeral processions; subject always to the direction, authority, and control of the Mayor and Aldermen: And it shall be the duty of the said Superintendent to carry into effect all the ordinances of the City Council, and the laws of the Commonwealth relative thereto, and it shall*

be the duty of the Mayor and Aldermen, and they shall have power, from time to time, to appoint such assistants or clerks to said department, as from experience may be found expedient, or any particular exigency may make necessary.

[75] SEC. 2. *Be it further ordained*, That said Superintendent shall be chosen by concurrent vote of the City Council, in the month of May or June annually, to be always first acted upon by the Mayor and Aldermen; and he shall hold his office until the next annual election, unless previously removed, by the said City Council, by vote, and thereupon, or in case of his death or resignation, the City Council shall proceed to appoint a successor, for the residue of the year; and said officer, his assistants or clerks, shall respectively be compensated as the City Council shall deem just and reasonable, and he shall be sworn to the faithful execution of his office, and shall give such bonds for the faithful discharge of his duties as shall be satisfactory to the Mayor and Aldermen.

[76] SEC. 3. *Be it further ordained*, That it shall be the duty of said Superintendent, to keep the fences, walls and gates of the several burying grounds and cemeteries in the City in good and sufficient repair, and to take care that the said burying grounds and cemeteries be sufficiently secured by locks and bolts; to point out the place, depth and width of every grave to be dug therein; to cause the said graves to be dug in exact ranges, parallel with, and as near to each other as the said superintendent shall think fit and proper; and to take care that the said graves be so filled and elevated, that water may not remain and stagnate thereon; to cause the tombs which may be opened in the respective cemeteries between the first day of July, and the thirtieth day of September, to be closed and pointed with lime within twenty-four hours after the deposite of bodies therein; and to order and direct the Wardens, or other proper officer or officers, of the several Churches to which cemeteries belong, to cause at least three bushels of good stone lime to be slacked therein, on the first and fifteenth days of July, August, and September; and also to record in a book to be kept for that purpose, the name, age and sex of each person interred; the family to which the deceased belonged; the disease of which he or she died; and whether citizen or stranger; the time when interred; the number of the grave, and the number of the range where buried, or the tomb where deposited.

[77] SEC. 4. *Be it further ordained*, That the said superintendent shall permit the family of any person hereafter buried in any grave in the north or south burial grounds, to place within one month after the burial of such person, a stone of the

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following dimensions, to wit : length four and a half feet, breadth one foot ten inches, thickness three and a half inches, having the person's name and age, the number of the grave, the number of the range cut thereon, and placed perpendicularly six inches from the head of the grave, and settled in the earth eighteen inches, from a level surface ; which facts being recorded by the said superintendent, such grave shall be reserved for the use of the same family twenty years ; and graves may be reopened for members of the same family : *Provided*, the top of any coffin placed therein, be not within three feet of the surface of the ground.

[78] SEC. 5. *Be it further ordained*, That no new range of graves shall be commenced, until the preceding range shall be taken up by deposite of one or more bodies therein.

[79] SEC. 6. *Be it further ordained*, That all funeral Cars used in this city, shall be under the care of said superintendent, and shall be deposited for safe keeping in places provided for that purpose. And it shall be the duty of said superintendent to cause them to be kept clean and in good repair ; and that he shall permit no person to use the same, except the funeral undertakers licensed as such, by the Mayor and Aldermen ; and that the said superintendent shall account monthly to the Auditor of Accounts, for all fees.

[80] SEC. 7. *Be it further ordained*, That a sufficient number of funeral undertakers shall be appointed and licensed by the Mayor and Aldermen, who shall be responsible for the decent, orderly and faithful management of the funerals undertaken by them, and for a strict compliance with the ordinances of the city in this behalf. Each undertaker may employ porters of a discreet and sober character to assist him, and shall be accountable to the Mayor and Aldermen for their conduct, and said undertakers and porters shall always be removable at the pleasure of the Mayor and Aldermen ; and all persons not licensed as undertakers, are hereby forbidden and prohibited to undertake, the management of any funeral, under a penalty of a sum not less than two dollars, and not more than twenty dollars for each offence.

[81] SEC. 8. *Be it further ordained*, That no person shall bury or inter, or cause to be buried or interred, any dead body, without having first obtained a license so to do, from the superintendent of burials ; and it is hereby made the duty of said superintendent to grant the same.

[82] SEC. 9. *Be it further ordained*, That no person shall bury or inter, or cause to be buried or interred, any dead body at any other time of the day than between sun-rising and sun-setting, except when otherwise ordered by the superin-

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tendent of burials ; and all funerals shall be conducted through or into at least into one of the principal streets. No bell shall be tolled in the City of Boston, at any funeral, without a special permit therefor from the Mayor. The corpse of every person of ten years of age and upwards, shall be conveyed to the grave or tomb in a funeral car, to be drawn by not more than two horses : *Provided, however*, that on extraordinary occasions, permission may be obtained from the Mayor and Aldermen, on application for that purpose, to dispense with any of the provisions of this section.

[83] SEC. 10. *Be it further ordained*, That the central, chapel, and granary burying grounds, so called, shall be so far closed, as that no new graves shall be opened or dug, nor tombs built therein, until the further order of the Mayor and Aldermen ; and that the old part of the north burying ground shall be so far closed, as that no new graves shall be opened or dug therein ; but any person may obtain permission from the Mayor and Aldermen, to erect tombs in the new part of the north burying ground, and in the south burying ground, under the direction, and upon such terms and conditions as shall or may be prescribed by the said Mayor and Aldermen.

[84] SEC. 11. *Be it further ordained*, That the following fees shall be collected and paid for services in the execution of this ordinance, to wit : to the City, *seventy-five cents*, for each person buried, and *one dollar* per mile, for any distance that a funeral car may be sent out of the City, which, together with the fees for graves and tombs, are to be collected from the families of the persons interred. *To the Undertakers*, for digging a grave eight feet deep, and covering the same, *two dollars and fifty cents* ; for digging a grave six feet six inches deep, *one dollar and fifty cents* ; for digging a grave five feet deep, *one dollar and twenty-five cents* ; and for one four feet deep, *one dollar*. For opening and closing a tomb, *seventy-five cents*. For attendance and service at the house of a person deceased, in collecting and returning chairs, and other service, *one dollar*. For every family notified by request, *five cents*. For tolling a bell by special permission, *fifty cents*. For placing a corpse in a coffin, when requested, and removing the same down stairs, *one dollar*. For the use of one horse in the car, and leader, *one dollar and fifty cents* ; and for each additional horse, *seventy-five cents*. For carrying a corpse from the house to the car, and from the car to the grave, tomb, or vault, and placing the same therein and closing the same, including the assistance of the funeral porters, *three dollars* ; and the same fees shall be allowed and paid in all cases of removing a corpse from any public vault, and re-

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burying or entombing the same, as are allowed and paid for burying or entombing a corpse in any grave, vault, or tomb, as aforesaid. *For the burial of children*, under ten years of age, to wit: digging a grave three and a half feet deep, *seventy-five cents*; for service at the house, *one dollar*; tolling a bell by special permission, *fifty cents*; carrying the corpse to the carriage, and from the carriage to the place of deposite, *fifty cents*; for the use of a pall, *twenty-five cents*. And when a corpse shall be carried into a church for a funeral service, the Undertaker may make an additional charge of *two dollars*; and when the ground shall be frozen, the charge of digging graves may be augmented at the discretion of the Mayor and Aldermen. And it shall be the duty of the several undertakers to pay over, monthly, to the superintendent, the fees received by them on account of the City, provided for and established in this section.

[85] SEC. 12. *Be it further ordained*, That if any person should be desirous to remove out of the city, the body of a deceased person for interment, it may be lawful so to do, on application to the Superintendent of burials, whose duty it shall be to attend at the time and place of removal: *Provided*, no cause should appear to withhold the permission.

[86] SEC. 13. *Be it further ordained*, That no person shall remove any bodies, or the remains of any bodies, from any of the graves or tombs in this city, or shall disturb, break up, or remove any body in any tomb or grave without the special permission of the Superintendent of burials.

[87] SEC. 14. *Be it further ordained*, That no grave or tomb shall be opened from the first day of June to the first day of October, except for the purpose of interring the dead, without the special permission of the Mayor and Aldermen, or Superintendent of Burials.

[88] SEC. 15. *Be it further ordained*, That any persons who shall be guilty of any violation of any of the provisions of this Ordinance shall for each offence forfeit and pay a sum not less than two nor more than twenty dollars to be recovered by complaint before the Justices of the Police Court.

[89] SEC. 16. *Be it further ordained*, That “an ordinance relative to the burial of the dead,” and all other ordinances, orders and By-Laws on the same subject, are hereby repealed: *Provided*, however, that all officers heretofore appointed under said Ordinance, shall continue to hold and execute their respective offices until others are appointed in their places.

CHAPTER XXV.

House of Correction.

ACTS OF THE LEGISLATURE.

[1] *House of Industry—City entitled to same remedies for supporting paupers in, as Overseers of the Poor in towns.*

[2] *House of Correction in the City to be for the County. Overseers, their appointment, power and duty. Prisoners how to be discharged.*

[3] *Master to be appointed—expenses how to be defrayed.*

[4] *Fines under the health laws and Ordinances to be recovered before the Justices*

Court. Inhabitaney not to disqualify acting as a Magistrate, Juror or witness.

[5] *Special act, &c. need not be set forth in prosecutions by complaint, before the Police Court.*

[6] *Board of Aldermen, vacancies in, how filled.*

[7] *City Council to establish Houses of Correction, Mayor and Aldermen to transfer convicts—(See post, Chapter xxvii. [7])*

An Act concerning the regulation of the House of Correction in the City of Boston, and concerning the form of actions commenced under the By-Laws of said City, and providing for filling vacancies in the board of Aldermen.

[*Passed June 12, 1824.*]

[1] SEC. 1. *Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, That the City of Boston shall be entitled to the same remedies in order to recover the expences of supporting any poor person maintained in the House of Industry of said city, that towns in this Commonwealth are entitled to for the recovery of the expenses of persons, for whom support or relief is provided by overseers of the poor, or under their direction.*

[2] SEC. 2. *Be it further enacted, That the House of Correction within the City of Boston, shall be the House of Correction for the County of Suffolk, and that the City Council of said City, shall have power from time to time, to appoint such a number of overseers of the House of Correction in said City of Boston, not exceeding nine, as they shall deem expe-*

dient, who shall have, use and exercise all the powers and authority in regulating and governing said House of Correction, and the inhabitants thereof, subject to the control of the Mayor and Aldermen of the said City, that are granted to the overseers of Houses of Correction, in and by an Act, entitled "An act, for suppressing and punishing of rogues, vagabonds, common beggars, and other idle and lewd persons," passed on the twenty-sixth day of March, in the year of our Lord, one thousand seven hundred and eighty-eight, and the several Acts additional thereto; and the said overseers so appointed, or the major part thereof, shall, from time to time, make, ordain and establish such rules and orders, not repugnant to the constitution and laws of the Commonwealth, for the governing and punishing of persons committed to the said house, as they shall find needful and proper, which within one month after they shall have been made, shall be submitted to the said City Council, and shall be in force until repealed by the said Overseers, or until disapproved of by the said City Council, and the power of discharging persons committed to the said House of Correction, by the Justices of the Police Court of said City, or by any Justice of the Peace, for the County of Suffolk, before the expiration of their term of commitment, upon the recommendation of the overseers of said House, shall be and hereby is vested in any one or more of the Justices of the Police Court of said City.

[3] SEC. 3. *Be it further enacted*, That the said City Council shall have power from time to time, to appoint a Master of the said House of Corection, who shall be under the direction and control of the said Overseers, and shall be compensated in such manner as the said City Council shall direct. And the said City of Boston shall bear and defray all the expenses of the said House of Correction, and shall be entitled to the same remedies to recover the charges of maintaining any person therein, that the Masters or Overseers of the several Houses of Correction throughout the Commonwealth, or that towns, or Counties are now entitled to by law.

[4] SEC. 4. *Be it further enacted*, That all fines, penalties and forfeitures, accruing under a statute of this Commonwealth, passed the twentieth day of June, in the year of our Lord, one thousand eight hundred and sixteen, entitled "an Act to empower the town of Boston, to choose a Board of Health, and to prescribe their power and duty," or accruing under any rules, regulations, by-laws or ordinances which have been, or hereafter shall be passed, by the City Council of the City of Boston, in relation to the health of the said City, or of the inhabitants thereof, shall be sued for, prosecuted and re-

covered by complaint or information before the Justices of the Justices Court, for the County of Suffolk, in the name of the "City of Boston," by any Officer or person authorized to institute the same, and in the manner prescribed in the statute above mentioned, and, such fines, penalties and forfeitures, shall enure and be recovered for the use of the said City ; and no person shall be disqualified from acting as a magistrate, juror, or witness in any such suit or prosecution by reason of any interest which he may have as an inhabitant of the said City, in the sum or sums of money to be recovered thereby.

[5] SEC. 5. *Be it further enacted*, That in all prosecutions by complaint before the Police Court for the City of Boston, founded on the special acts of the Legislature, the by-laws of the town of Boston, or the ordinances or by-laws of the City of Boston, it shall be sufficient to set forth in said complaint, the offence fully and plainly, substantially and formally, and in such complaint it shall not be necessary to set forth such special act, by-law, ordinance or any part thereof.

[6] SEC. 6. *Be it further enacted*, That in case of the death or resignation of any member of the Board of Aldermen, the citizens of Boston shall have power to fill such vacancy at any regular meeting that may thereafter be convened for that purpose.

Extract from an Act concerning Juvenile Offenders in the City of Boston. [*Passed March 4, 1826.*]

[7] SEC. 7. *Be it further enacted*, That it shall be lawful for the said City Council, at their discretion, to establish within said city, two or more Houses of Correction, to be Houses of Correction for the County of Suffolk ; and it shall be lawful for the Mayor and Aldermen of said city to transfer persons held under sentence in either of said houses, to any other of said houses, when, in their opinion, the health, moral improvement, or beneficial employment of such persons will be promoted thereby.

CHAPTER XXVI.

House of Industry.

ACTS OF THE LEGISLATURE.

[1] *City Council to choose nine Directors—(altered see post 9.)*

[2] *Directors to have powers of Overseers of the Poor—(see post 8.)*

[3] *Police Court may commit to House of Industry, according to the provisions of the "Vagabond act".*

[4] *Annual Report of the Directors to the City Council.*

[5] *Rules and Orders of Directors to be submitted to City Council.*

[6] *Rules and Orders not*

to be valid unless made at meeting of five Directors—(altered see post 9.)

[7] *Directors, choice of first Board of—provided for.*

[8] *Directors to have the same powers relating to Paupers and binding out children as Overseers of the Poor.*

[9] *Directors, further provisions with regard to their number—vacancies in the board may be filled—may appoint Officers.*

[10] *Repealing clause.*

An act concerning the House of Industry in the City of Boston. [*Passed Feb. 3, 1823.*]

[1] SEC. 1. *Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, That the City Council of the City of Boston shall choose annually, in the month of May, by ballot, nine discreet and suitable citizens, to be directors of the House of Industry in said city.*

[2] SEC. 2. *Be it further enacted, That the said directors shall have and exercise the like authority and power, in using, regulating and governing said House of Industry, as are had and exercised by overseers of the poor within this Commonwealth, and may send such persons to said house, and for such purposes, as overseers of the poor are by law authorized to do.*

[3] SEC. 3. *Be it further enacted, That the Justices of the Police Court in the City of Boston, in the County of Suffolk, shall have and exercise the like authority and power, in*

ordering commitments to said House of Industry, as are now vested in Justices of the Peace, as to commitments to Houses of Correction, according to the provisions of an act, entitled "An act for suppressing and punishing of rogues, vagabonds, common beggars, and other idle disorderly and lewd persons," passed on the twenty sixth day of March in the year of our Lord one thousand seven hundred and eighty eight.

[4] SEC. 4. *Be it further enacted*, That the said directors shall, in the month of April, in every year, make report in writing to the City Council of the persons who shall have been resident in said House of Industry, during the next preceeding twelve months,—and the manner in which such persons shall have been employed during their residence therein; and the said directors shall also render to the City Council in the month of April, annually, an account of all moneys received and paid on account of the said House.

[5] SEC. 5. *Be it further enacted*, That all rules and orders for the governing and managing said House of Industry, shall, within two months after the same shall have been made, be submitted to the City Council; and such rules and orders shall be in force until repealed or altered by the said directors, or until disapproved of by vote of the said City Council.

[6] SEC. 6. *Be it further enacted*, That no rules or orders shall be established for the governing and managing said House of Industry, by the directors thereof, unless at a meeting at which five or more of said directors are present.

[7] SEC. 7. *Be it further enacted*, That the City Council of the City of Boston, be, and the same hereby is authorized and empowered, as soon after the passing of this act as they may see fit, to choose nine directors of said House of Industry, to continue in office until the election of directors which may be made pursuant to this act in the month of May in the year one thousand eight hundred and twenty-four, any thing in this act to the contrary notwithstanding.

An act, in addition to an act, entitled "An act concerning the House of Industry in the City of Boston."

[*Passed March 5, 1827.*]

[8] *Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same*, That the Directors of the House of Industry in the City of Boston shall have and exercise all the powers and perform

all the duties relative to paupers, and the binding out of children and other persons committed to said House of Industry for support, as the overseers of the poor of the several towns in this Commonwealth now have and exercise, in relation to paupers and the binding out of children, and other persons under and by virtue of the several laws of this Commonwealth ; and all acts of said directors shall impose the same duties, liabilities and obligations, in all judicial tribunals, on the City of Boston aforesaid, and on the several towns and individuals of this Commonwealth, as the same acts would impose, if done and performed in the same manner by the overseers of the poor of the several towns in this Commonwealth.

An act in addition to the several Acts “ concerning a House of Industry in the City of Boston.”

[*Passed March 16, 1833.*]

[9] *Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same,* That the City Council of the city of Boston are hereby empowered, whenever they deem it expedient, to appoint, by concurrent ballot in each board, a sufficient number of persons, not exceeding twelve, a majority of whom shall constitute a quorum for the transaction of business, to be directors of the House of Industry in the said city, who shall hold their office for the term of one year, and until others are appointed in their place ; and said city council are further empowered, in like manner, to fill all vacancies which may occur in said board of directors, during the year for which it is appointed. And said directors may appoint a superintendent, and any other officers necessary for the government of said house, and shall have all the powers, and be subject to all the duties prescribed to said board by virtue of the several acts to which this is in addition.

[10] SEC. 2. *Be it further enacted,* That, the provisions of any previous act which are inconsistent with this, be, and the same hereby are repealed.

CHAPTER XXVII.

House for Juvenile Offenders.

ACTS OF THE LEGISLATURE.

[1] *City Council may erect or use buildings in the City, for Juvenile Offenders.*

[2] *Children convicted of criminal offences may be received by Directors—(see post 8.)*

[3] *Children leading an idle or dissolute life, &c. may be sentenced by Courts to the House—to be kept, &c. till of age.*

[4] *Directors to employ and instruct children—to bind out—to have powers, &c. of Overseers of the Poor.*

[5] *Court may discharge convicts on recommendation of Directors.*

[6] *Children committed to House of Correction may be transferred to House for Juvenile offenders.*

[7] *Houses of Correction to be established by City Council, and convicts transferred by Mayor and Aldermen.*

[8] *Appeal from Judgment of the Police Court, under the second section of the original act, to the Municipal Court.*

An act concerning Juvenile Offenders in the City of Boston.

[*Passed March 4, 1826.*]

[1] SEC. 1. *Be it enacted by the Senate and House of Representatives in General Court assembled and by the authority of the same, That the City Council of the City of Boston, be, and hereby are authorized to erect a building in said city, for the reception, instruction, employment and reformation of such Juvenile Offenders, as are hereinafter named ; or to use for these purposes the House of Industry, or Correction, at South Boston, or any other House or building belonging to said city, that the City Council may appropriate to these uses.*

[2] SEC. 2. *Be it further enacted, That the Directors of the said House of Industry, or such other persons as said City Council shall appoint Directors of said House, for the employment and reformation of Juvenile Offenders, shall have power, at their discretion, to receive and take into said house all such children who shall be convicted of criminal offences or taken up and committed under and by virtue of an act of this*

Commonwealth, "for suppressing and punishing of rogues, vagabonds, common beggars, and other idle, disorderly and lewd persons," and who may, in the judgment of any Justice of the Supreme Judicial Court, sitting within and for the County of Suffolk, or the Judge of the Municipal Court of the City of Boston, or of any Justice of the Police Court within and for the City of Boston, be proper objects therefor; and upon the conviction or commitment aforesaid, of any child, in the judgment of such Judge or Justice a proper object for the said house of employment and reformation, the said Judge or Justice, previously to declaring the sentence of the law on such child, shall cause notice to be given to the Directors of the said house; and in case the said Directors shall declare their assent to the admission of such child into said house, the said Judge or Justice shall sentence him or her to be committed to said house of employment and reformation, subject to the control of the Directors thereof, in conformity with the provisions of this act.

[3] SEC. 3. *Be it further enacted*, That any Justice or Judge of either of the said Courts respectively, on the application of the Mayor, or of any Alderman of the City of Boston, or of any Director of the House of Industry, or House of Reformation, or of any Overseer of the Poor, of said city, shall have power to sentence to said house of employment and reformation all children who live an idle or dissolute life, whose parents are dead, or if living, from drunkenness, or other vices, neglect to provide any suitable employment, or exercise any salutary control over said children. And the persons thus committed, shall be kept governed and disposed of, as hereinafter provided, the males till they are of the age of twenty-one years, and the females of eighteen years.

[4] SEC. 4. *Be it further enacted*, That the Directors of said House of Industry, or such other persons as said City Council shall appoint Directors of the institution, authorized by this act, may receive the persons sentenced and committed as aforesaid, into said institution; and they shall have power to place the persons committed to their care, the males until they arrive at the age of twenty-one years, and the females until they arrive at the age of eighteen years, at such employments, and to cause them to be instructed in such branches of useful knowledge, as shall be suitable to their years and capacity; and they shall have power to bind out said minors as apprentices or servants, until they arrive at the ages aforesaid, to such persons, and at such places, to learn such arts, trades, and employments, as in their judgment will be most for the reformation, amendment, and future benefit and advantage of such minor. And the provisions of an act, entitled an act providing

for the relief and support, employment and removal of the poor and for repealing all former laws made for these purposes, passed the twenty-sixth day of February, in the year of our Lord one thousand seven hundred and ninety-four, contained in the fourth, fifth and sixth sections thereof, so far as they relate to binding out children as servants and apprentices, are adopted as a part of this act ; and the Directors specified in this act shall have all the powers, and be subject to all the duties of the Overseers of the Poor, as set forth in the sections aforesaid, of the act aforesaid ; and the master or mistress, servant and apprentice, bound out as aforesaid, shall have all the rights and privileges, and be subject to all the duties, set forth in the sections aforesaid, of the act aforesaid.

[5] SEC. 5. *Be it further enacted*, That whenever said Directors, Overseers, or Managers, shall deem it expedient to discharge any minor, committed to their charge as aforesaid, and not bound out as a servant or apprentice, and shall recommend the same in writing to the court by whom such minor was committed, said court shall have power to discharge him or her from the imprisonment or custody aforesaid.

[6] SEC. 6. *Be it further enacted*, That the said Judge or either of the said Justices, on the application of either of the persons mentioned in the third section of this act, shall have power to order the transfer of any child committed to the common gaol, or the House of Correction, and inmates of the same at the time of passing this act, to the said house for the employment and reformation of Juvenile Offenders, to be received, kept, or bound out by the Directors thereof in conformity with the provisions of this act.

[7] SEC. 7. *Be it further ordained*, That it shall be lawful for the said City Council, at their discretion, to establish within said city, two or more Houses of Correction, to be Houses of Correction for the County of Suffolk ; and it shall be lawful for the Mayor and Aldermen of said city to transfer persons held under sentence in either of said houses, to any other of said houses, when in their opinion, the health, moral improvement, or beneficial employment of such persons will be promoted thereby.

An Act in addition to an Act entitled "An Act concerning Juvenile Offenders in the City of Boston."

[*Passed June 12, 1829.*]

[8] *Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same,* That any party aggrieved by the sentence of the Police Court, or any Justice thereof, passed pursuant to the second section of an act, entitled "An act concerning Juvenile Offenders of the City of Boston," may appeal from such sentence, to the next Municipal Court in the said City, whose judgment shall be final, as in other cases of appeals from the judgment of Justices of the Peace, to the Courts of Common Pleas, in criminal cases; the party appealing recognizing with sufficient surety or sureties, to the satisfaction of the Justice of the Police Court, by whom the sentence is passed, to enter and prosecute such appeal, and in the mean time to keep the peace, and be of good behaviour.

CHAPTER XXVIII.

Licensed Houses.

ACT OF THE LEGISLATURE.

[1] *Innholders, &c. Persons presuming to be, unlicensed—and Persons selling without license—penalty for.*

[2] *Retailers, &c. Persons presuming to sell less quantities than ten gallons, without a license—Retailers, licensed, selling liquors to be drunk in their houses, &c. Penalty for.*

[3] *Victuallers, persons presuming to be, without a license, or persons selling without license. Penalty for.*

[4] *Mayor and Aldermen to grant licenses, Victuallers and innholders, distinction between.*

[5] *Victuallers keeping open their shop, &c. or selling, &c. on the Lord's day or after ten o'clock at night—penalty for.*

[6] *Mayor and Aldermen may license for the City—License must state the place, &c.*

[7] *License to be renewed yearly, to expire on the 1st of April—Persons licensed to pay one dollar to the Clerk.*

[8] *Mayor and Aldermen may license as they shall decide*

the public good requires, without fee.

[9] *Manner of proceeding in towns.*

[10] *Innholders to be furnished with provisions for travellers, horses, &c.—Innholders and Victuallers to have signs, &c. Innholders neglecting to entertain, to forfeit their license, &c.*

[11] *Innholders and Victuallers not to permit gaming, &c.—penalty—Persons playing, &c.—penalty for.*

[12] *Innholders and Victuallers, permitting persons to drink to excess—penalty for.*

[13] *Innholders and Victuallers giving credit for liquor sold—penalty for.*

[14] *Persons wasting their estate by excessive drinking, &c. licensed persons forbidden to sell to, &c.*

[15] *Fines and penalties, how to be recovered.*

[16] *Repealing clause.*

[17] *Chelsea, licenses for, to be granted by Mayor and Aldermen.*

An Act for the due regulation of Licensed Houses.

[Passed March 24, 1832.]

[1] SEC. 1. *Be it enacted by the Senate and House of Representatives in General Court assembled and by the authority of the same, That no person shall presume to be an innholder, or seller of wine, brandy, rum, or any other spirituous liquors,*

to be used, and consumed in or about his or her premises, except such person be first duly licensed according to law, as is herein provided, on pain of forfeiting the sum of one hundred dollars; and if any person shall at any time sell any spirituous liquors, or any mixed liquors, part of which is spirituous, to be used or drank in or about his or her premises, without license therefor duly had or obtained according to law, he or she shall forfeit and pay, for each offence, a sum not exceeding twenty dollars, nor less than ten dollars.

[2] SEC. 2. *Be it further enacted*, That no person shall presume to be a retailer or seller of wine, brandy, rum, gin, whiskey or other distilled spirits, in a less quantity than ten gallons, and that delivered and carried away all at one time, except such person be first duly licensed according to law, as is herein provided, on pain of forfeiting the sum of twenty dollars for each offence; and no person, licensed to be a retailer as aforesaid, shall presume to sell any of the above liquors, either mixed, or unmixed to be drunk in his or her house or shop, or in any of the parts or dependencies of the same, under pain of forfeiting therefor the sum of twenty dollars.

[3] SEC. 3. *Be it further enacted*, That no person shall presume to be a common victualler, or seller of wine, brandy, rum, or any other spirituous liquors, to be used and consumed in or about his or her premises, except such person be first duly licensed according to law, as is herein provided, on pain of forfeiting the sum of one hundred dollars; and if any person shall at any time sell any spirituous liquors, to be used or drunk in or about his or her premises, without license therefor duly had and obtained according to law, he or she shall forfeit and pay, for each offence, a sum not exceeding twenty dollars, nor less than ten dollars.

[4] SEC. 4. *Be it further enacted*, That the Mayor and Aldermen of the city of Boston, may license for said city as many applicants therein as common victuallers, as they shall decide the public good may require, and to remove all doubt of the nature of the occupation of the common victualler provided to be licensed in this act, it is hereby provided that all the liabilities, privileges and requirements of this act, which apply to innholders, shall apply to common victuallers, excepting that they shall not be required to furnish lodging for travellers, hay and provender for horses and cattle.

[5] SEC. 5. *Be it further enacted*, That if any person licensed as a common victualler, as described in the preceding section of this act, shall keep open his or her house, cellar, shop, store or place of business, on any part of the Lord's day or evening, or keep open the same at a later hour than ten of

the clock of the evening of any working day, and entertain any person therein by selling him or her any spirituous or strong liquor on the Lord's day or evening, or on any working day at a later hour than ten of the clock in the evening thereof, he or she so offending shall forfeit and pay, for each offence, on conviction thereof, the sum of ten dollars.

[6] SEC. 6. *Be it further enacted*, That the Mayor and Aldermen of the city of Boston may license for said city of Boston ; and the county commissioners in the several counties in this Commonwealth may license for the towns and districts in their respective counties, as many applicants therein as innholders or retailers, as they shall decide the public good may require : and, in all licenses to be granted either to innholders, common victuallers or retailers within the city of Boston, or in the towns or districts in this Commonwealth, the street, lane, alley or other place, and the number of the building, or some other particular description thereof, within said city, town or district, shall be specified, where such licensed person shall carry on and exercise his or her respective employment, and said license shall not protect such person from the liabilities provided in this act, for carrying on and exercising his or her employment in any other place than in that specified in said license.

[7] SEC. 7. *Be it further enacted*, That all licenses to innholders, retailers and common victuallers, shall be yearly granted or renewed, and the time for which all such licenses shall be granted or renewed shall expire on the first day of April in each year, but it shall be in the power of the Mayor and Aldermen of the city of Boston, and the county commissioners in their several counties, to grant or renew licenses at any time after the said first day of April, for the remainder of the year, whenever they shall deem the same expedient. And each person, who shall be licensed as aforesaid, shall pay to the clerk of the city of Boston, or to the clerk of the county commissioners of their respective counties, the sum of one dollar, which shall be paid by said clerks to the treasurers of their respective counties, for the use and benefit of said counties.

[8] SEC. 8. *Be it further enacted*, That the Mayor and Aldermen of the city of Boston, may license for the City of Boston, and the county commissioners in the several counties may license for the towns and districts in their respective counties, in the manner before provided, as many persons therein as they shall decide the public good shall require as innholders, common victuallers, or retailers or sellers of wine, beer, ale, cider, or any other fermented liquor, and no excise or fee shall be required therefor.

[9] SEC. 9. *Be it further enacted*, That the clerk of the county commissioners in the several counties shall from time to time, annually, before granting the said licenses, seasonably transmit to the selectmen of every town or district within the county, a list of the names of the persons in such town or district, who were licensed as innholders, retailers or common victuallers the year before. And no license shall be granted or renewed to any person unless he or she shall produce a certificate from the selectmen of the town or district where such license is intended to be exercised, or from a majority of them, in form following, to wit: We, the subscribers, a majority of the selectmen of the town (or district) of do hereby certify, that has applied to us to be recommended as (here expressing the employment, and a particular description of the place for which the license is sought) in the town (or district) of and that, after mature consideration, we are of opinion, that the public convenience requires, that the petition of said be granted, he or she being, to the best of our knowledge and belief, a person of good moral character.

(Signed)

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C D } *Selectmen of*
E F }

Provided, however, that any person aggrieved by the neglect or refusal of the selectmen of any town or district within any county within this Commonwealth to return the certificate, as has been herein prescribed, in order that his or her license as an innholder, retailer or common victualler may be renewed, or by their refusing to give their approbation, that such person may be originally licensed to be an innholder, retailer or common victualler, within such town or district, it shall and may be lawful for the county commissioners within said county, on application of such aggrieved person to renew or originally grant the license prayed for, any law, custom, or usage to the contrary notwithstanding: *provided always*, that the person applying shall substantially prove to the satisfaction of the said commissioners, that the selectmen have unreasonably neglected or refused to give their certificate or approbation, as is herein prescribed, and that the public convenience requires the renewal or originally granting the license prayed for; and that it shall be the duty of such aggrieved person to inform the selectmen or some of them, refusing as aforesaid, that he or she shall apply to county commissioners at their session next to be holden within said county, for the renewal or granting of his license, so that the selectmen may if they see fit, appear and shew cause why such person should not be licensed.

[10] SEC. 10. *Be it further enacted*, That every licensed innholder shall at all times be furnished with suitable provisions and lodging, for the refreshment and entertainment of strangers and travellers, stable room, hay and provender for their horses and cattle, on pain of being deprived of his or her license. And every licensed innholder and common victualler shall, at all times, have a board or sign affixed to his or her house, shop, cellar or store, or in some conspicuous place near the same, with his or her name at large thereon, and the employment for which he or she is licensed, under pain of forfeiting the sum of twenty dollars : and if any innholder enjoined by this act to be suitably provided to receive and entertain strangers, travellers, or others, as occasion may require, shall be convicted of refusing to make suitable provisions, when desired, for receiving of strangers, travellers, and their horses and cattle, such person, upon conviction thereof, in the Court of Common Pleas in the County to which such licensed person belongs, shall, by the said court, be deprived of his or her license : and the said court shall, in such case, order the sheriff of the same county, or his deputy, to cause the sign of such convicted person to be taken down, whose duty it shall be to perform the same without delay.

[11] SEC. 11. *Be it further enacted*, That no innholder, and no common victualler, shall have or keep in or about his or her house, shop, cellar or store, yards, gardens or dependencies, any dice, cards, bowls, billiards, quoits, or any other implements used in gaming ; nor shall suffer any person or persons resorting unto his or her house or other place of business to use or exercise any of said games, or any other unlawful game or sport within his or her house or place of business, or any of the dependencies as aforesaid, or places to them belonging, on pain of forfeiting the sum of ten dollars for every such offence. And every person convicted of using and exercising any of the games as aforesaid, in any such house, place of business, or dependencies thereof, shall forfeit the sum of ten dollars.

[12] SEC. 12. *Be it further enacted*, That no innholder, and no common victualler, shall suffer any person to drink to drunkenness or excess in his or her house or place of business, or suffer any minor, (travellers excepted) or servant to drink there, or to have any strong drink there, after having been forbidden by their respective parents, guardians or masters, on pain of forfeiting the sum of five dollars for each offence.

[13] SEC. 13. *Be it further enacted*, That if any innholder, or any common victualler, shall trust or give credit, from

time to time, to any person for liquor to be drunk and used in his or her premises, such innholder or common victualler shall lose and forfeit all such sums so trusted and credited ; and all actions hereafter brought for such debt or debts, shall be utterly excluded and barred. And the defendant in such action may plead the matter specially, or, under the general issue, give the matter in evidence, any law, usage or custom to the contrary notwithstanding.

[14] SEC. 14. *Be it further enacted*, That whenever any person shall, by idleness or by excessive drinking of spirituous liquors, so mispend, waste, or lessen his or her estate, as thereby either to expose himself or herself, his or her family, to want or indigent circumstances, or the city, town or district to which he or she belongs, to a charge or expense for the maintenance of him or her, or of his or her family, or shall so habitually indulge himself or herself in the use of spirituous liquors, as thereby to greatly injure his or her health, or endanger the loss thereof, the city clerk, under the direction of the Mayor and Aldermen of the city of Boston, and the Selectmen of the towns or districts as aforesaid, shall, in writing, under their hands, forbid all licensed innholders, retailers and common victuallers to sell to any of the persons aforesaid, any spirituous or strong liquors in this act mentioned or referred to, for the space of one year, and shall, in like manner forbid the licensed persons, as aforesaid, of the city of Boston, or of any other town or district to which such persons may resort for the same : and said Mayor and Aldermen, and said Selectmen, shall, in the same manner, from year to year, renew the prohibition as to all such persons as have not in their opinion reformed within the year ; and if any licensed innholder, common victualler or retailer, shall, during any such prohibition, sell to any such prohibited person, any spirituous liquor in this act mentioned or referred to, he or she shall forfeit and pay, for each offence, the sum of twenty dollars ; and whenever the authorities aforesaid, agreeably to the provisions of this act, have prohibited the sale of any strong liquor to any mispender of time or estate as aforesaid, if any person shall, with a knowledge of said prohibition, give, sell, purchase or procure for, and in behalf of such prohibited person, or for his or her use, any spirituous or strong liquors as aforesaid, he shall forfeit and pay the sum of twenty dollars for each offence.

[15] SEC. 15. *Be it further enacted*, That all fines, forfeitures and penalties, created by this act, may be sued for and recovered in an action of debt, or of the case, in any court of competent jurisdiction to try the same, by any person who will prosecute therefor, in which case the penalty, fine or forfeiture

shall enure, one moiety thereof to the county where the offence was committed, and the other moiety to the person prosecuting for the same ; or the same may be prosecuted for and recovered by indictment in any court of competent jurisdiction, in which case the whole of the fines, forfeitures and penalties shall enure to the county where the offence was committed ;— and in all cases arising under this act in the city of Boston, (excepting where the fine, forfeiture or penalty exceeds twenty dollars,) the police court shall be held to be a court of competent jurisdiction ; and the prosecutions in said court shall be by complaint or information, subject to the right of appeal to the Municipal Court ; but the police court shall not have power under this act to sentence to imprisonment. *Provided*, that in all cases where a person shall be convicted of a breach of this act, and is unable to pay the penalty, fine or forfeiture, or fails to do it, he may be imprisoned in the jail of the county where the offence was committed, for a term of time not more than ninety days, at the discretion of the court before whom trial has been had. *Provided further*, that any licensed person described in this act, being twice convicted of any breach of it, shall thereupon, in addition to the penalties herein before provided, be liable to a further punishment of not more than ninety days imprisonment, in the jail of the county within which the offence was committed, at the discretion of the court before whom trial may be had.

[15] SEC. 16. *Be it further enacted*, That the act for the due regulation of licensed houses, passed on the twenty-eighth day of February, one thousand seven hundred and eighty-seven, and the several acts in addition thereto, and all former laws on the same subject, be and the same are hereby repealed. *Provided however*, that nothing herein contained shall affect any suit, indictment, or other legal proceeding now commenced or pending, or that shall be hereafter commenced for any breach of the laws which are by this section repealed, nor the rights of any person now licensed, for the remainder of the term for which they are licensed.

An Act in addition to "An Act for the due regulation of Licensed Houses." [*Passed March 16, 1833.*]

[17] *Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same,* That the Mayor and Aldermen of the city of Boston be, and they hereby are authorized and empowered to grant licenses for the town of Chelsea, in the county of Suffolk, in the same manner as the county commissioners may, by the act to which this act is in addition, now grant licenses for the towns and districts in their respective counties.

CHAPTER XXIX.

Jail.

ACT OF THE LEGISLATURE.

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| <p>[1] <i>Jailer to furnish fuel to poor prisoners, allowance to be made by Court of Sessions.</i></p> <p>[2] <i>Mayor and Aldermen to direct rations, penalty for Jailers neglecting to provide</i></p> | <p><i>them—use of spirituous liquors prohibited. Penalty.</i></p> <p>[3] <i>Prisoners injuring the Jail, how punished.</i></p> <p>[4] <i>Spirituous liquors, introduction of, how prohibited.</i></p> |
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An Act for the better regulation of Gaols, and the prisoners therein. [*Passed Feb. 21, 1824.*]

[1] SEC. 1. *Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, That the Gaol Keeper of each Gaol in said Commonwealth, shall furnish necessary fuel for all prisoners unable to support themselves, and confined in his respective gaol upon charge or conviction of crimes or offences against said Commonwealth, or on mesne process or execution, at the expense of the County where said gaol may be situated, and the charges therefor, shall be allowed in manner following: said gaol keeper shall render on oath to the Court of Sessions of the County an account of the charges incurred by him for said fuel, and said Court shall make a reasonable allowance therefor to said gaol keeper, to be paid out of the County Treasury.*

[2] SEC. 2. *Be it further enacted, That whenever the Court of Sessions, or Mayor and Aldermen of the City of Boston, in their respective Counties, shall order and direct what specific rations or articles of food, soap, fuel or other necessities shall be furnished for the prisoners confined in any such gaol by the keeper thereof, and said gaol keeper shall neglect or refuse to furnish the same accordingly, or if said gaol keeper shall give, sell or deliver, or shall knowingly suffer to be given, sold or delivered to any person who is committed to gaol, on mesne process or execution, and who is supported by his or her creditor, or to any other person for the use of said prisoner, any spirituous liquor, unless the Physician who is authorized to at-*

tend upon the sick in such prison, shall certify in writing, that the health of such prisoner requires it, in which case he shall be allowed the quantity prescribed, and no more ; said gaol keeper shall, for committing either of the offences, the first time, forfeit the sum of twenty-five dollars, to be recovered in an action of debt, by any person who will sue for the same, for his own use, in any Court of Common Pleas, in said County, or by indictment in said Court, in which last case the forfeiture shall be for the use of the County. And for committing either of said offences the second time, said gaol keeper shall forfeit the sum of fifty dollars, to be recovered in the manner and to the use aforesaid, and shall also be removed from his office, and be rendered and become incapable of holding the office of Sheriff, Deputy Sheriff or Gaoler for the term of five years.

[3] SEC. 3. *Be it further enacted*, That if any person confined in gaol, upon charge or conviction of crimes or offences against said Commonwealth, shall be unruly or disorderly, or shall wantonly break, injure, or destroy any article of bedding, furniture or the windows of said gaol, it shall be lawful for the Sheriff of the County where said gaol may be, after due inquiry into the circumstances of the case, to order such prisoner to be kept in solitary imprisonment in the most retired and solitary part of said gaol ; and during such solitary imprisonment, the said prisoner shall be fed with bread and water only, unless other food be necessary for the preservation of his or her life ; provided such solitary imprisonment shall not be for a longer time than ten days for every such offence. And if any person confined on mesne process, or execution, in any such gaol, shall be guilty of either of the said offences in this section mentioned, and be convicted thereof before any Justice of the Peace in said County, or before the Police Court of the City of Boston, in the County of Suffolk, on complaint made by the keeper of said gaol, said Justice or Police Court, may order the same punishment of solitary confinement, and bread and water, and for a time not exceeding five days for any one offence, to be inflicted on said last mentioned prisoner as is above provided against said offences ; but nothing herein contained shall be construed to take from the keeper of any gaol or prison the authority which is now by law vested in him to preserve order therein, and strict discipline among the prisoners.

[4] SEC. 4. *Be it further enacted*, That if any person shall have in his possession any spirituous liquor within the precincts of any gaol, house of correction, or prison in said Commonwealth, with an intent to convey or deliver the same without the consent of the gaol keeper of said gaol, master of such house of correction, or keeper of such prison, to any prisoner

confined in any gaol, house of correction, or prison, within said Commonwealth, he shall forfeit and pay for each offence, a sum not less than five nor more than ten dollars, with costs of prosecution, to be recovered by complaint to any Justice of the Peace for the same County, or the Police Court of the City of Boston, in the County of Suffolk, one moiety thereof to him who shall prosecute for the same, and the other moiety to the use of the Commonwealth.

CHAPTER XXX.

Lamps.

ACTS OF THE LEGISLATURE.

[1] <i>Wilful breaking, &c. lamps, &c.—penalty for.</i>	}	[4] <i>Wilful breaking lamps, &c. subjected to the penalties of previous act. (See 1.)</i>
[2] <i>Disposal of fines.</i>		
[3] <i>Mayor and Aldermen empowered to set up lamps.</i>		[5] <i>Repealing clause.</i>

An Act to prevent the wanton destruction of Lamps.

[*Passed Feb. 18, 1824.*]

[1] SEC. 1. *Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, That if any person shall wilfully and maliciously break, throw down or extinguish any Lamp that is or shall be put up to light any Road, Bridge, Street or Passage-way, in this Commonwealth, or shall wilfully and maliciously damage the post, the iron or other furniture of such lamp, he shall, upon conviction thereof, forfeit and pay a sum not less than ten dollars nor more than thirty dollars for each lamp so broken or damaged, and the like sum for each post or the iron or other furniture so broken or damaged, and costs of prosecution.*

[2] SEC. 2. *Be it further enacted, That all fines and forfeitures accruing under this act shall enure, the one moiety thereof to the use of the Commonwealth, and the other moiety to the use of the person who shall prosecute for the same.*

An act for the regulation of Lamps in the City of Boston.

[*Passed June 16, 1825.*]

[3] SEC. 1. *Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, That from and after the publication of this act, it shall be lawful for the Mayor and Aldermen of the city of Boston, for the time being, to cause to be set up and affixed, such and so many Lamps in the streets and other places in the*

said city, for the purpose of lighting the same, as they may determine to be convenient and necessary. And the said Mayor and Aldermen are hereby empowered to make all necessary contracts, rules, orders, and regulations, respecting the said lamps, and the lighting and keeping the same in repair, and the regulation and preservation of the same, as they may deem most for the benefit of said city.

[4] SEC. 2. *Be it further enacted*, That whoever shall wilfully, maliciously, carelessly or wantonly break, throw down, extinguish, or otherwise injure any of the said lamps, or the posts, irons, or other furniture to the same belonging, shall be liable to the fines, penalties, and forfeitures which are provided in and by an act, entitled "An act to prevent the wanton destruction of lamps," made and passed on the eighteenth day of February, in the year of our Lord, one thousand eight hundred and twenty-four, to be recovered and appropriated in the manner provided in said act.

[5] SEC. 3. *Be it further enacted*, That the act, entitled "An act for regulating lamps already set up, or that may hereafter be set up, for enlighteng the streets, lanes, alleys, or passage-ways in the town of Boston and to prevent the breaking or otherwise damnifying the same, and also establishing the method for paying the expenses that may arise in supporting or maintaining said lamps," be, and is hereby repealed: *Provided*, the said act shall remain in force as to all fines, penalties, and forfeitures which have been incurred prior to the passing of this act, in and by virtue thereof.

CHAPTER XXXI.

Survey of Lumber.

ACT OF THE LEGISLATURE.

[1] *Rules, &c. for survey of Lumber brought into the City by water to be made by City Council.*

[2] *Surveyors of Lumber to be appointed by City Council.*

[3] *Repealing clause—Act, when to take effect.*

[4] *Repeal of particular acts.*

[5] *Legislative control over the act.*

ORDINANCE OF THE CITY.

[6] *Surveyor General of Lumber, appointment of.*

[7] *Deputy surveyors, their appointment, duty of Surveyor and deputies.*

[8] *Pine boards and planks, survey of.*

[9] *Pine joists, survey of.*

[10] *Spruce, hemlock and juniper boards, &c., survey of.*

[11] *Ash, Maple, and ornamental boards, &c. survey of.*

[12] *Timber, survey of.*

[13] *Mahogany and cedar, survey of.*

14 *Timber, boards, &c., how to be marked and sold.*

15 *Fees to be received for surveying.*

[16] *Compensation to be paid to surveyor general.*

[17] *Annual return to be made by surveyor.*

[18] *Fraud, &c. of Surveyor or deputies, penalty for,*

[19] *Selling, &c. contrary to this ordinance, penalty for.*

[20] *Repealing clause.*

An Act to provide for the Survey of Lumber in the City of Boston, and to repeal certain provisions of law in relation to the exportation of Lumber from the Commonwealth.

[*Passed March 6, 1830.*]

[1] SEC. 1. *Be it enacted by the Senate and House of Representatives in General Court assembled and by the authority of the same, That, from after the passage of this act, it shall be lawful for the City Government of the City of Boston, to make and establish ordinances, rules, and regulations, for the inspection, Survey, and Admeasurement of Boards, Plank, Timber, Shingles, Clapboards, and Lumber, of every descrip-*

tion, brought by water into said City for sale, as they may from time to time determine to be expedient, and suitable to the circumstances of the said City, and to ordain fit penalties for the breach of such ordinances, rules, and regulations, to be recovered in the same manner, and before the same Courts, as other fines and forfeitures are recoverable by law.

[2] SEC. 2. *Be it further enacted*, That the said City Government, in their discretion, may also provide for the appointment of all such Surveyors, Inspectors, and other officers, as they may find expedient and proper for the execution of such ordinances, rules, and regulations, and to fix their fees, and compensation for their official duties and services.

[3] SEC. 3. *Be it further enacted*, That so much of any acts of this Commonwealth, as is inconsistent with the powers herein given to the City Government of the City of Boston, be, and the same is hereby repealed: *Provided, however, that* this section shall not take effect until the said City Government have made and established ordinances, and provided for the appointment of officers for the Survey of Lumber, agreeably to the first and second sections of this act, and until said ordinances have been published as other ordinances of said City are published.

[4] SEC. 4. *Be it further enacted*, That the second, fifth, sixth, and seventh sections of an act passed July eleventh, in the year of our Lord one thousand seven hundred and eighty-three, entitled "An act for the Admeasurement of Boards, and regulating the tale of Shingles, Clapboards, Hoops and Staves," and also an Act in addition thereto, passed March sixteenth, in the year of our Lord one thousand seven hundred and eighty-four, be, and the same are hereby repealed.

[5] SEC. 5. *Be it further enacted*, That this act may be altered, amended, or repealed, at the pleasure of the Legislature.

An Ordinance regulating the survey and admeasurement of Lumber brought into the City of Boston by water for sale.

[*Passed Sept. 26, 1833.*]

[6] SEC. 1. *Be it ordained by the Mayor, Aldermen, and Common Council of the City of Boston, in City Council assembled*, That there shall be a Surveyor General of Lumber for the City of Boston, who shall be well skilled in the surveying and admeasurement of Lumber to be appointed in the

month of February annually, by concurrent vote of the City Council, who shall hold his office for one year, and until a successor be chosen, unless sooner removed. And before he shall enter on the duties of his office he shall give bond, with sufficient sureties, to the City Treasurer, in the sum of two thousand dollars, for the faithful discharge of his duty, and he shall be sworn faithfully to perform the same.

[7] SEC. 2. *Be it further ordained*, That said Surveyor General shall have power to appoint such a number of deputy surveyors of Lumber in general as he may judge sufficient, not however less than twelve. And the said surveyor general shall also appoint one or more deputy surveyors, whose sole and especial duty it shall be to survey oak and other hard wood commonly used in ship-building. And he shall likewise appoint one or more deputy surveyors, whose sole and especial duty it shall be to survey mahogany, ash, cedar and other ornamental wood and lumber. And said surveyor general shall be answerable for his deputies, and shall take bond from them respectively for the faithful discharge of their duty, and they shall be sworn faithfully to perform the same, and they shall be removeable at the pleasure of said Surveyor General. And it shall be the duty of said surveyor general and his deputies to survey and admeasure all lumber, brought into the city of Boston by water for sale, according to the provisions of this ordinance.

[8] SEC. 3. *Be it further ordained*, That in the survey of pine boards and planks, there shall be four sorts; the first sort shall be denominated number one, and shall include boards not less than one inch thick, straight grained, and free from rot, sap, knots and shakes. The second sort shall be denominated number two, and shall include boards not less than one inch thick, free from rot and large knots, and suitable for planing, provided that such boards as are clear, but are deficient in thickness as aforesaid, shall be received as number two by making such allowance for the deficiency in thickness as may be required to make them equal to one inch thick. The third sort shall be denominated number three, and shall include boards not less than seven eighths of an inch thick, nearly free from rot, and nearly square edge, and suitable for covering buildings. The fourth sort shall be denominated number four, and include all boards and plank of every description, not being within the other three denominations.

[9] SEC. 4. *Be it further ordained*, That in the survey of pine joist, there shall be two sorts, the first sort shall be denominated number one, and shall include all joist, that are

sound and square edged ; the second sort shall be denominated number two, and include all other descriptions.

[10] SEC. 5. *Be it further ordained*, That in the survey of spruce, hemlock, and juniper boards, plank and joist, there shall be two sorts ; the first sort shall be denominated number one, and shall include all boards, plank and joist that are sound and square edged. The second sort shall be denominated number two, and shall include all other descriptions.

[11] SEC. 6. *Be it further ordained*, That in the survey of ash, maple, and other hard wood, and ornamental boards, plank and joist, there shall be two sorts, the first sort shall be denominated number one, and shall include all boards, plank and joist that are sound and free from shakes. The second sort shall be denominated number two, and shall include all other descriptions.

[12] SEC. 7. *Be it further ordained*, That in the survey of timber except mahogany and cedar, there shall be two sorts, the first sort shall be denominated number one, and shall include all timber that is sound, straight, square edged and in lengths or joists not less than sixteen feet in length, due allowance being made for sap. The second sort shall be denominated number two, and shall include timber of all other descriptions.

[13] SEC. 8. *Be it further ordained*, That in the survey of mahogany and cedar, there shall be but one sort. And it shall be the duty of the surveyor general of lumber, and of his deputies who are specially appointed to survey mahogany and cedar, to number all the mahogany and cedar logs or sticks, contained in each lot or cargo, in regular numerical order and to mark the number of each log or stick upon the same in legible characters. And the said Surveyor shall to the best of his ability, ascertain the whole number of feet, board measure, in each and every log or stick, and what quantity thereof is merchantable, and what is refuse. And said surveyor shall thereupon issue a certificate, or survey bill, of said survey, in which shall be stated the number of each log or stick, and the whole number of feet contained in the same, and specifying the number of feet which is merchantable and refuse.

[14] SEC. 9. *Be it further ordained*, That all hewn timber six inches square and upwards except timber called scab, shall be surveyed and sold as ten timber, at and after the rate of forty cubic feet to a ton. All sawed timber shall be surveyed and sold by board measure. In the survey of boards, planks, joist and sawed timber the contents of the same shall be truly marked thereon, in plain and legible numbers and all other marks shall be erased. And on the second and third

sorts of boards and planks, the numbers two and three, shall be in like manner marked thereon respectively. Allowance and deduction shall be made for splits, not exceeding in any case one half the extent of the splits. All boards, planks, joist and sawed timber shall be received and sold according to the contents thereof as fixed and marked under the aforesaid regulations ; but all surveys shall be made under the direction of the Surveyor General, by his deputies ; and application shall be made by all persons requiring surveys to the Surveyor General, who shall direct his deputies to perform their respective duties in rotation.

[15] SEC. 10. *Be it further ordained*, That the fees for surveying and marking according to the foregoing provisions of this ordinance, and to be paid by the purchaser, shall be as follows, viz :—for Pine, Spruce, Hemlock and Juniper boards, plank, joist and sawed timber, twenty-four cents for every thousand feet, board measure. For Pine, Spruce, Hemlock and Juniper timber, twelve cents for every ton ; for Oak timber twenty-four cents for every ton ; for Ash, Maple and other hard wood, and ornamental boards, plank and joist, forty cents for every thousand feet board measure ; for Cuba and St. Domingo and other branch or hard Mahogany, one dollar for every thousand feet board measure ; and for Mahogany from the Bay of Honduras, and for Cedar seventy-five cents for every thousand feet, board measure.

[16] SEC. 11. *Be it further ordained*, That of the fees received by the deputy Surveyors, there shall be paid to the Surveyor general to his own use, as follows, viz :—three cents for every thousand feet of Pine, Spruce, Hemlock and Juniper boards, plank, joist and sawed timber ; four cents for every ton of Oak timber ; two cents for every ton of Pine and other timber ; five cents for every thousand feet board measure of Ash, and other ornamental lumber ; and ten cents for every hundred cents received by said deputies for the surveying of Mahogany and Cedar.

[17] SEC. 12. *Be it further ordained*, That it shall be the duty of the Surveyor General annually, on the first Monday of February, to make a true return to the Mayor and Aldermen of all lumber surveyed by his deputies, specifying the various kinds and qualities, and by whom surveyed, and the amount of all fees received by him and his deputies, pursuant to this ordinance.

[18] SEC. 13. *Be it further ordained*, That if the said Surveyor General, or either of his deputies, shall be guilty of or connive at any fraud or deceit, in surveying, marking or numbering the contents of any boards, plank, joist or timber,

he shall forfeit and pay for every offence, a sum not less than ten dollars, nor more than twenty dollars. And if the Surveyor General, or his deputies on due notice and request, shall unreasonably neglect or refuse to perform the duties enjoined by this ordinance, he shall forfeit and pay for every such offence, a sum not less than ten dollars nor more than twenty dollars. One half of the aforesaid forfeitures to be recovered by him or them who shall sue for the same to his or their use; and the other half to the use of the City of Boston, before any court of competent Jurisdiction.

[19] SEC. 14. *Be it further ordained*, That it shall not be lawful for any person within the City of Boston, to sell or to purchase any boards, plank, joist or timber brought by water into said city, unless they shall be surveyed marked and numbered, conformably to the provisions of this ordinance, except only such as are bona fide, intended to be exported, and shall be actually shipped for the purpose of such exportation within one year after the same shall have been sold and delivered to the person first purchasing or receiving the same in said City.

And every person who may sell or purchase any boards, plank, joist or timber, not surveyed, marked or numbered as herein provided, subject only to the foregoing exceptions, shall forfeit and pay for all boards, plank, joist and timber so sold and purchased, double the amount of fees due for the services herein prescribed for the Surveyor General, and his deputies, to be sued for, and recovered in any court of competent jurisdiction by the Surveyor General, or his deputy, one half thereof to the use of the person who shall sue for the same, and the other half to the use of the City of Boston.

[20] SEC. 15. *Be it further ordained*, That “an ordinance regulating the survey and admeasurement of lumber brought by water into the City of Boston for sale,” and the several ordinances “in addition thereto” and all other ordinances on the subject be, and the same are hereby repealed, except so far as may be necessary for the recovery of any penalty already incurred for the breach thereof. And provided that all officers appointed under said ordinances shall continue to hold their respective offices until others are appointed in their places.

CHAPTER XXXII.

Faneuil Hall Market.

ORDINANCE OF THE CITY.

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| <p>[1] <i>Clerk of Faneuil Hall Market to have the Superintendence of the limits of the Market.</i></p> <p>[2] <i>Clerk's appointment and salary.</i></p> <p>[3] <i>Faneuil Hall Market, its limits established.</i></p> <p>[4] <i>Carts &c., how to be kept and arranged in the Market.</i></p> <p>[5] <i>Carts &c. standing unlawfully, to be carried to stables.</i></p> <p>[6] <i>Streets not to be used for stands &c. without permission.</i></p> <p>[7] <i>Produce of what farms to be sold at the stands.</i></p> | <p>[8] <i>Weight, butter, &c. to be sold by.</i></p> <p>[9] <i>Right of selling to be forfeited for frauds &c.</i></p> <p>[10] <i>Stalls how to be leased, leases when forfeited.</i></p> <p>[11] <i>Stalls, nuisances to be removed from by lessees.</i></p> <p>[12] <i>Passage ways &c., offal not to be thrown into.</i></p> <p>[13] <i>Stalls, when to be forfeited.</i></p> <p>[14] <i>Idle and disorderly behaviour in Market to be restrained.</i></p> <p>[15] <i>Penalties.</i></p> <p>[16] <i>Repealing clauses.</i></p> |
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An Ordinance for the regulation of Faneuil Hall Market.

[*Passed Sept. 23, 1833.*]

[1] SEC. 1. *Be it ordained by the Mayor, Aldermen, and Common Council of the City of Boston, in City Council assembled, That the Clerk of Faneuil Hall Market, shall under the control of the Mayor and Aldermen have the care and superintendence of said Market, and it shall be his duty to preserve order in the said Market, and to execute and carry into effect all the regulations, orders and ordinances, which may be duly made and established from time to time, by the City Council, or Mayor and Aldermen, for the due regulation of the same. And it shall be his duty to enter complaint for any violation of said orders or Regulations ; And he shall have the direction of all carts or other carriages, having provisions of any kind for sale, which shall stand within the limits of said market.*

[2] SEC. 2. *Be it further ordained,* That said Clerk shall be appointed annually in the month of June or July by the Mayor and Aldermen, and he shall be removeable at their pleasure, and shall receive such compensation for his services as the City Council shall annually direct.

[3] SEC. 3. *Be it further ordained,* That the limits of Faneuil Hall Market shall be the lower door and porch of the building called Faneuil Hall Market, and the streets on each side thereof, called North Market street, and South Market Street, that part of Commercial Street between long wharf and Clinton Street, and also Merchants' Row.

[4] SEC. 4. *Be it further ordained,* That no person shall keep any wagon, or other carriage, horse, or other beast within said limits, for any longer space of time, or shall range them in any other manner or form than such as may be directed by the said Clerk, in conformity to the rules and regulations for that purpose made and published by the Mayor and Aldermen, and which they are hereby authorized from time to time to make and publish.

[5] SEC. 5. *Be it further ordained,* That all horses shall be taken from the carts or other carriages with provisions of any kind for sale, which shall stand within either of the streets aforesaid, and be conducted to a stable, or otherwise removed from the said streets by the owner or driver; and it shall be lawful for the Clerk of the said Market, and he is hereby authorized and empowered, whenever he shall find any wagon or other carriage, ox or other beast, standing or being within either of the streets above mentioned, in a manner, place, or for a time not authorized by the law, or contrary to the regulations made in that respect as aforesaid, and without a driver or owner, forthwith to cause such wagon, or other carriage, ox or other beast, to be conducted to some stable or other safe and proper place; and the owner or the person having the care or keeping thereof, shall be liable to pay before the redelivery thereof into his possession the entire cost and expense thereof, during the time it shall be in the said stable, or other safe and suitable place, together with such further sum to the city not exceeding one dollar; for the trouble arising in that behalf, as the clerk of said market shall demand, the same to be paid to, and accounted for by said clerk.

[6] SEC. 6. *Be it further ordained,* That no persons unless duly authorized by the Mayor and Aldermen, shall be allowed to stand in any of the streets, lanes, alleys, squares or public places of the city, with their carts or other carriages, horses or other beasts, having meat, poultry, vegetables or other articles of provision for sale, nor shall any person be allowed to

place any stall, bench or block therein, on which to exhibit any such provisions for sale.

[7] SEC. 7. *Be it further ordained*, That no Inhabitant of the City of Boston, or of any town which is less than fifteen miles distant from said city shall at any season of the year, without the permission of the Clerk of the Faneuil Hall Market be suffered to occupy any stand, with cart, sleigh or otherwise, for the purpose of vending any articles within the limits of said market, unless said articles are the produce of his own farm or of some farm in his neighbourhood, and every person so offending, on being ordered so to do by the said clerk, shall forthwith remove from and out of said streets.

[8] SEC. 8. *Be it further ordained*, That all butter brought within the limits of said Market for sale, shall be sold by weight ; and if in lumps, each lump shall contain one or more pounds weight without any fraction of a pound. And all vegetables used as greens, and cherries brought into said market for sale shall be sold by weight.

[9] SEC. 9. *Be it further ordained*, That if any person shall sell or offer for sale any article which shall be deficient in the weight or measure for which he sells the same or offers the same for sale, or shall practice any species of fraudulent dealing in the market, and shall be convicted thereof, or of either of the offences enumerated in this ordinance, he shall not be permitted to use, or hire a stall, or have and occupy any stand in said market, or in any of the streets leading thereto, for the purpose of offering for sale any article of provisions, usually sold in said market, for the term of one year. from and after such conviction, unless specially permitted so to do by the Mayor and Aldermen.

[10] SEC. 10. *Be it further ordained*, That the several stalls in said market shall be leased to the respective occupants by written leases, and the conditions of said leases shall be fixed by the Mayor and Aldermen, and the rent thereof shall be paid to the clerk of the market, or to such person as the Mayor and Aldermen shall appoint at such times as the said Mayor and Aldermen shall determine. And the said lessees shall not underlet the same or any part thereof, nor permit the same or any part thereof to be occupied by any other person, without the assent of the Mayor and Aldermen, under the penalty of forfeiting their respective stalls and leases.

[11] SEC. 11. *Be it further ordained*, That said lessees shall not throw, or permit to be thrown, or to remain within the precincts of their respective stalls, any offal, animal substance, scrapings, or any kind of dirt, filth, or useless matter, but shall forthwith remove the same, or cause the same to be deposited

in some tight vessel, to be approved by the clerk of the market ; and to be removed by said lessee, as the said clerk shall direct.

[12] SEC. 12. *Be it further ordained*, That no person shall throw or sweep any offals, animal or vegetable substance, scrapings, or sweepings, damaged salt, pickle or foul water, from the stalls or cellars into the passage ways, on the side walks or into the streets adjoining the Market House, at any time during the day or night.

[13] SEC. 13. *Be it further ordained*, That when the lessee of any stall shall from any cause whatever, vacate the same, or receive notice from the Mayor and Aldermen to vacate the same, or shall neglect or refuse to pay his rent, for the space of twenty four hours, or neglect or refuse to comply with the regulations established for the good order and cleanliness of the Market House, and its entries, passage-ways, side-walks, and the streets adjoining the Market House, such stall or stalls shall revert to the City and be at the disposal of the Mayor and Aldermen.

[14] SEC. 14. *Be it further ordained*, That no person shall, within the walls of said Faneuil Hall Market, or on the side walks of the same, play at any game, or lie down or sleep therein, or behave in a disorderly, noisy or riotous manner, and it shall be the duty of the clerk of the Market to cause all persons so offending to be prosecuted, and to prevent idle or disorderly persons frequenting the said Market.

[15] SEC. 15. *Be it further ordained*, That any person who shall violate any of the provisions of this ordinance shall forfeit and pay in addition to the penalties before prescribed a sum not less than two nor more than twenty dollars, to be recovered by complaint before the Justices of the Police Court.

[16] SEC. 16. *Be it further ordained*, That “an Ordinance for the due regulation of the Markets,” and all ordinances and By Laws of the Town or City of Boston on the subject of this ordinance be and the same are hereby repealed, excepting so far as may be necessary for the recovery of any penalty already incurred for the breach of the same. *Provided*, however, that all officers appointed under the first mentioned ordinance shall continue to hold their respective offices, until others are appointed in their places.

CHAPTER XXXIII.

City Marshal.

ORDINANCE OF THE CITY.

[1] *Time (altered, see post 8,) and mode of appointment of Marshal.*

2 *Marshal to be Tythingman and Constable—to have precedence.*

[3] *To take oath and give bond.*

[4] *Assistant Marshals, their appointment and powers.*

[5] *City Marshal's duty particularly defined.*

[6] *To be removable by Mayor and Aldermen, vacancies in the office to be filled—salary of Marshal and assistants.*

[7] *Superintendent of Police, office abolished.*

[8] *Time of appointing Marshal altered.*

An ordinance authorizing the election, and prescribing the duties of the City Marshal. [*Passed June 18, 1823.*]

[1] SEC. 1. *Be it ordained by the Mayor, Aldermen and Common Council of the City of Boston, in City Council assembled, That the Mayor and Aldermen shall forthwith, and forever hereafter, in the month of May [or June, add. ord. May 25, 1829,] annually, appoint a City Marshal, who shall remain in office until the next annual election, unless removed as hereinafter provided.*

[2] SEC. 2. *Be it further ordained, That said City Marshal shall be appointed to the offices of Tythingman and Constable; and during his continuance in the office of City Marshal, shall have precedence and command over the other constables and tythingmen, whenever engaged in the same service, or when directed thereto by the Mayor and Aldermen.*

[3] SEC. 3. *Be it further ordained, That the said City Marshal, before entering upon the duties of his office, shall take before the Mayor and Aldermen, the oaths of office, as by law provided for constables and tythingmen; and he shall give bond in the sum of one thousand dollars, with surety, to be approved by the Mayor and Aldermen, for the faithful performance of his said office.*

[4] SEC. 4. *Be it further ordained, That the City Marshal shall, whenever authorized by the Mayor and Aldermen,*

employ one or more deputies, who shall be approved by the Mayor and Aldermen ; who shall also, in like manner, take the said oaths of office : whereupon such deputy shall have power and authority to assist the City Marshal, in the execution of his office ; or, on any occasion when the City Marshal is not present, to officiate for him in his stead ; but no deputy shall remain in office longer than during the approbation of the Mayor and Aldermen. And the City Marshal shall be responsible for the conduct of each of his deputies.

[5] SEC. 5. *Be it further ordained*, That it shall be the duty of the City Marshal, from time to time, to pass through the streets, alleys, and courts of the city ; to observe nuisances, obstructions, and impediments therein, to the end that the same may be removed or prosecuted, according to law ; to notice all offences against the laws and orders in being, taking the names of offenders, to the end that the same may be prosecuted ; to aid the clerks of the Market in the execution of their duty ; and to receive all complaints of the inhabitants, made against any breach of the laws ; and for this purpose, shall attend daily at some stated hour, in some central and public office. It shall also be his duty to enforce and carry into effect to the utmost of his power, all and every of the city ordinances, according to the true intent and meaning of the same ; as well those which now are, as those which hereafter shall or may be in force ; to obey and execute all the commands and orders of the Mayor and Aldermen, in relation to any matter or thing in which the city may be in any wise concerned or interested ; to be vigilant in detecting any violation or breach of any law or city ordinance ; and for that purpose to pass through every street, lane, alley, or open court of the city, not less than twice a week ; to furnish the Mayor, once a week, with a detailed report, in writing, of all such offences against the laws or the city ordinances, or of any of them, as he or his deputies may have detected ; to prosecute all offenders against the laws or city ordinances, if possible, within one week after detecting or ascertaining the offence or offences by them respectively committed ; to attend regularly and punctually, on all trials of offenders prosecuted on behalf of the city ; and to use all lawful ways and means, for the effectual prosecution, and final conviction of offenders ; to lay before the Mayor and Aldermen a correct statement of all prosecutions by him instituted before the Municipal or Police Court, within one week after their final determination ; and further to perform all such other and additional duties, and to comply with all such regulations, as may at any time be prescribed to him, by the Mayor and Aldermen,

[6] SEC. 6. *Be it further ordained*, That the Mayor and Aldermen may, at any time, by vote, remove from office the said City Marshal; and thereupon, or in case of his death or resignation, proceed to appoint a successor, for the residue of the year. And the said City Marshal and his deputies, shall be compensated in like manner, as the Superintendent of Police and his assistants, are now by law authorized to be compensated.

[7] SEC. 7. *Be it further ordained*, That the office of Superintendent of Police, be, and the same is hereby abolished.

An Ordinance, in addition to an Ordinance, authorizing the election and prescribing the duties of the City Marshal.

[*Passed May 25, 1829.*]

[8] *Be it ordained by the Mayor, Aldermen, and Common Council of the City of Boston, in City Council assembled*, That the first section of an ordinance providing for the choice of a City Marshal, in the month of May annually, passed June 11, 1823, be, and the same is hereby so far altered as that said choice may be made at any time within the month of June, annually.

CHAPTER XXXIV.

City Officers.

[1] *Mayor*, chosen by citizens in Wards second Monday of December. Chapter I. (33.)

[2] *Assessors*, chosen by City Council in months of March or April. Chapter XLV. (14.)

[3] *Attorney and Solicitor*, City, chosen by City Council in June. Chapter IV. (1.)

[4] *Auditor of Accounts*, chosen by City Council in the month of May. Chapter II. (2.)

[5] *Boston Free Bridge*, Superintendent of, chosen by City Council in January or February.

[6] *Burials*, Superintendent of, chosen by City Council in May or June. Chapter XXIV. (74.)

[7] *Clerk*, city, chosen by City Council first Monday of January. Chapter I. (34.)

[8] *Clerk of Common Council*, chosen by Common Council first Monday of January. See Chapter I. (34.)

[9] *Faneuil Hall*, Superintendent of, chosen by Mayor and Aldermen. Chapter XLIV.

[10] *Faneuil Hall Market*, clerk of, appointed by Mayor and Aldermen in June or July. Chapter XXII. (2.)

[11] *Fire Department*, Chief and other Engineers of, chosen by City Council, annually. Chapter XXI. (54 66.)

[12] *Hay*, &c. weighers of, chosen by City Council in January. Chapter XXIII. (6.)

[13] *Island Keeper*, chosen by City Council in January. Chapter XXIV. (64.)

[14] *Lumber*, surveyor of, chosen by City Council in February. Chapter XXXI. (1.)

[15] *Marshal*, city, chosen by Mayor and Aldermen in May or June. Chapter XXXIII. (1, 8.)

[16] *Messenger*, appointed by Mayor and Aldermen. Chapter I. (13.)

[17] *Physician*, Resident, chosen by City Council in January. Chapter XXIV. (52.)

[18] *Physicians*, consulting, chosen by City Council in May or June. Chapter XXIV. (35.)

[19] *Streets*, superintendent of, chosen by Mayor and Aldermen in January or February. Chapter XLI. (21.)

[20] *Treasurer and Collector*, City, chosen in Convention, annually. Chapter I. (18.)

[21] *Watch*, captain of, chosen by Mayor and Aldermen. Chapter I. (13.)

CHAPTER XXXV.

Office Hours.

ORDINANCE OF THE CITY.

[1] *Office hours of City Treasurer.*

[2] *Of City Clerk—to keep records of Mayor and Aldermen and City Council.*

[3] *Office hours of Auditor of Accounts, Superintendent of Burying grounds, &c.*

[4] *Office hours of Clerk of Common Council—his duty.*

[5] *Office hours of the Assessors.*

[6] *City officers before named, their duty to attend at other times.*

An ordinance for regulating the Office hours of the public Officers of the City. [*Passed Jan. 10, 1825.*]

[1] SEC. 1. *Be it ordained by the Mayor, Aldermen and Common Council of the City of Boston, in City Council assembled,* That the public office hours of the City Treasurer shall be from 9 o'clock, A. M. until 2 o'clock, P. M.

[2] SEC. 2. *Be it further ordained,* That the office hours of the City Clerk shall be, from the first day of April to the first day of October, from 8 o'clock, A. M. until 2 o'clock P. M. and from half past 3 o'clock until 6 o'clock, P. M. and the remainder of the year 9 o'clock, A. M. until 2 o'clock, P. M. and from half past 3 o'clock until 5 o'clock, P. M. and also to attend and keep the records at all meetings of the Mayor and Aldermen, and of the City Council.

[3] SEC. 3. *Be it further ordained,* That the office hours of the Auditor of Accounts, Commissioner of Health and Superintendent of Burying Grounds, shall be the same as are prescribed for the City Clerk.

[4] SEC. 4. *Be it further ordained,* That the office hours for the Clerk of the Common Council shall be the same as are prescribed for the City Clerk, and he shall also attend and keep the records at all meetings of the Common Council.

[5] SEC. 5. *Be it further ordained,* That the office hours of the Assessors shall be the same as those appointed for the City Clerk; except such portion of the year as they may

be necessarily absent for the purpose of appraising the real and personal property and obtaining the number of polls for taxation.

[6] SEC. 6. *Be it further ordained,* That each of the officers before named shall attend the duties of their several offices at such other times as the interest of the city may require.

CHAPTER XXXVI.

Ordinances and By-Laws.

ACTS OF THE LEGISLATURE.

[1] *Authority given to towns, to make by-laws, &c.*

[2] *Mode of recovering penalties for breach of by-laws.*

[3] *Mode of recovering penalties for breach of by-laws in Boston—appropriation of fines—right of appeal.*

[4] *Inprisonment for breach of by-laws not to extend beyond ten days.*

[5] *In prosecutions by complaint before the Police Court, the offence may be set forth substantially.*

ORDINANCE OF THE CITY.

[6] *To continue in force, By-laws &c. of the Town.*

[7] *Enacting style of City Ordinances.*

[8] *Penalties &c. to enure to the use of the City.*

[9] *City Marshal and other officers to take notice of Complaints.*

[10] *Promulgation of Ordinances, and Orders of the Mayor and Aldermen.*

ACTS OF THE LEGISLATURE.

Extract from “An act for regulating Towns, setting forth their power” &c. [*Passed March 23, 1786.*]

[1] SEC. 7. *Be it further enacted, by the authority aforesaid, That the freeholders, and other inhabitants of each respective town, qualified as aforesaid, at the annual meeting for the choice of town officers, or at any other town meeting, regularly warned, may, and they are hereby empowered to make and agree upon such necessary Rules, Orders and By-laws, for the directing, managing and ordering the prudential affairs of such town, as they shall judge most conducive to the peace, welfare and good order thereof; and to annex penalties for the observance of the same, not exceeding thirty shillings for one offence; to enure to such uses as they shall therein direct: Provided, they be not repugnant to the general laws of the government, and provided also, such Orders and By-laws, shall have the approbation of the Court of General Sessions of the peace of the same County.*

An act for carrying into execution, more effectually, the By-laws of the several towns within this Commonwealth.

[*Passed March 3, 1802.*]

[2] *Be it enacted by the Senate and House of Representatives in General Court assembled and by the authority of the same*, That, from and after the passing of this act, all fines and forfeitures, accruing for the breach of any by-law in any town within this Commonwealth, may be prosecuted for, and recovered before any Justice of the Peace in the town or county where the offence shall be committed, by complaint or information, in the same way and manner other criminal offences are now prosecuted before the Justices of the Peace within this Commonwealth.

Extract from an act in further addition to an act, entitled “An Act for the due regulation of Weights and Measures,” and for the more easy recovery of fines and penalties within the town of Boston, in the County of Suffolk.

[*Passed June 17, 1817.*]

[3] SEC. 3. *Be it further enacted*, that, all fines, forfeitures, and penalties accruing with the said town of Boston, under this act, or for the breach of any By-law of the said town, which is now in force, or which may hereafter be duly enacted and made, may be recovered by indictment, information or complaint, in the name of the Commonwealth, in any court competent to try the same; and all fines so recovered and paid, shall be appropriated to the uses for which the same are now by law ordered to be applied: reserving, however, in all cases, to the party complained of and prosecuted, the right of appeal to the next Municipal Court, in the town of Boston, from the judgment and sentence of any Justice of the peace; in which case the Judgment of the said Municipal Court shall be final; and to the next Supreme Judicial Court, to be holden within the County of Suffolk, and for the Counties of Suffolk and Nantucket, from the Judgment of the Municipal Court where the indictment or information originated in the same; such party recognizing with sufficient surety or sureties, to the satisfaction of the Court, to enter and prosecute his, her or their said appeal, and to abide the final Judgment thereon.

[4] SEC. 4. *Be it further enacted*, That when any person, who, upon a conviction before a Justice of the peace, for any offence mentioned in this act, or for the breach of any By-law of the town of Boston, shall be sentenced to pay a fine, and shall not appeal from said Judgment, or if upon claiming an appeal, shall fail to recognize as aforesaid, and upon not paying the fines and cost so assessed upon him, shall be committed to prison, there to remain until he or she shall pay such fines and cost, or be otherwise discharged according to law ; such persons shall not be holden in prison for a longer term than ten days ; and at the expiration of that term, the keeper of the said Gaol is hereby authorized to release such person from confinement.

Extract from “ An Act concerning the regulation of the House of Correction in the City of Boston ; and concerning the form of actions commenced under the By-laws of said City ; and providing for filling Vacancies in the board of Aldermen.” [*Passed June 12, 1824.*]

[5] SEC. 5. *Be it further enacted*, That in all prosecutions by complaint before the Police Court for the City of Boston founded on the special Acts of the Legislature, the By-laws of the town of Boston, or the Ordinances or the By-laws of the City of Boston, it shall be sufficient to set forth in such complaint, the offence fully and plainly, substantially and formally ; and in such complaint it shall not be necessary to set forth such special Act, By-law, Ordinance or any part thereof.

An ordinance to continue in force the By-laws and Orders of the town of Boston. [*Passed May 2, 1822.*]

[6] *Be it ordained by the Mayor, Aldermen, and Common Council of the City of Boston, in City Council assembled*, That all the By-laws and Orders of the town of Boston which were in force on the thirtieth day of April, in the year of our Lord one thousand eight hundred and twenty-two, shall be, and they are hereby declared to be of force in the City of Boston.

An ordinance relative to the acts of the City Council, and the Enacting Style. [*Passed Dec. 12, 1825.*]

[7] *Be it ordained by the Mayor, Aldermen, and Common Council, of the City of Boston, in City Council assembled, That hereinafter all acts of the City Council, shall be denominated Ordinances, and that the enacting style shall be, "Be it ordained by the Mayor, Aldermen, and Common Council of the City of Boston, in City Council assembled," and that an order respecting City Ordinances passed September 1, 1823, be, and the same is hereby repealed.*

An ordinance directing the manner in which fines and penalties shall be recovered. [*Passed Dec. 22, 1825.*]

[8] SEC. 1. *Be it ordained by the Mayor, Aldermen, and Common Council of the City of Boston, in City Council assembled, That all fines and penalties for the violation of any of the ordinances of the City Council, or any of the orders of the Mayor and Aldermen, when recovered shall enure to the use of the City, and shall be paid into the City Treasury, except in those cases where it may be otherwise directed and provided by the acts of the Legislature, or the ordinances of the City Council.*

[9] SEC. 2. *Be it further ordained, That it shall be the duty of the City Marshal, and of all other officers of the City to take notice of the complaints of all persons for violation of all acts, ordinances, and orders aforesaid, which effect the particular department of such officers, and to cause all prosecutions to be instituted and pursued which may be necessary to enforce obedience to the acts, orders, and ordinances aforesaid.*

An ordinance directing the manner in which the Ordinances of the City Council, and the Orders of the Mayor and Aldermen shall be promulgated. [*Passed Dec. 19, 1825.*]

[10] *Be it ordained by the Mayor, Aldermen, and Common Council of the City of Boston, in City Council assembled, That all the ordinances of the City Council, and all the orders of the Mayor and Aldermen, shall be published and promul-*

gated by inserting the same two weeks successively in the newspapers printed by the printer for the Commonwealth for the time being, and in such other of the newspapers published and printed within the City as the Mayor and Aldermen shall from time to time, and at their discretion, designate and appoint,

CHAPTER XXXVII.

Porters.

ACTS OF THE LEGISLATURE.

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| <p>[1] <i>Selectmen (Mayor and Aldermen) to appoint Porters. Porters to wear badges—their wages to be regulated.</i></p> <p>[2] <i>Persons unlicensed acting as Porters—penalty for.</i></p> <p>[3] <i>Appearing without badge</i></p> | <p><i>or asking more wages than is allowed—penalty for.</i></p> <p>[4] <i>Security to be given by Porters, disorderly conduct of, how punished—limitation of the act.</i></p> |
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ORDINANCE OF THE CITY.

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| <p>[5] <i>Porters and Handcart-men to be licensed by Mayor and Aldermen.</i></p> <p>[6] <i>Duration of license.</i></p> <p>[7] <i>Stands to be assigned, penalty for standing in other places.</i></p> | <p>[8] <i>Handcarts, &c. to be marked.</i></p> <p>[9] <i>Demanding unreasonable rates or refusing to transport, &c.—penalty for.</i></p> <p>[10] <i>Porters not to employ improper persons.</i></p> <p>[11] <i>Repealing clause.</i></p> |
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An act for the better regulating Porters employed within the town of Boston.

[*Passed 1741. Made perpetual March 7, 1797.*]

[1] SEC. 1. *Be it enacted by His Excellency the Governor, Council and Representatives in General Court assembled, and by the authority of the same,* That the Selectmen of the town of Boston for the time being, shall have full power and authority to order what number, and who shall be employed, and take upon them the business of carrying goods, wares and merchandize for pay or wages, as common porters within said town; and what rate or price such persons shall ask, receive and take for their labour, service and attendance, according to the distance of place or other circumstances, the Selectmen shall order and ascertain; all which persons, so admitted by the Selectmen, shall at all times when in the service or doing the business of porters wear a badge or ticket with the figure of a pine tree marked thereon, on some part of his upper garment

or girdle ; which badge or ticket shall be numbered, and a fair entry of each porter's ticket made in the Selectmen's book, also the wages they are to ask and receive, within ten days after the approbation of the Selectmen as aforesaid.

[2] SEC. 2. *And be it further enacted by the authority aforesaid,* That whosoever shall presume to take up the business and employ of a common porter, and convey or carry goods and merchandize from place to place, within the town of Boston, for hire or wages, without being admitted by the Selectmen, as aforesaid, shall forfeit and pay the sum of twenty shillings, for every time he shall be convicted thereof, before any one of his Majesty's Justices of the Peace, within the county of Suffolk, at Boston aforesaid ; the one half of which fine or forfeiture, shall be disposed of to and for the use of the poor of the town of Boston, the other half to him or them that shall inform and sue for the same.

[3] SEC. 3. *And be it further enacted,* That whosoever being admitted as a porter as aforesaid, shall ask, take, and receive any more than what the selectmen shall allow, for any work or service, shall for every such exaction, forfeit and pay the sum of twenty shillings, to be recovered and disposed of as by this act is hereby directed ; and if any person admitted and approved of as aforesaid, as a common porter, shall officiate or concern himself in the business of transporting goods or merchandize, not having his badge or ticket, shall, for every such breach of this act, forfeit and pay the sum of twenty shillings, to be recovered and disposed of as aforesaid.

[4] SEC. 4. *And be it further enacted,* That the selectmen shall require and take bond of each one of the porters, admitted as aforesaid with sufficient surety, in a sum not exceeding fifty pounds, for their orderly and faithful acting in the business ; more especially, their safe conveying and delivering such goods, as shall be committed to them ; and that upon complaint made to the selectmen, that any whom they may have admitted as aforesaid, do not behave and conduct themselves orderly, peaceably and quietly towards their employers, it being made to appear, the party accused being seasonably notified thereof, such person may be removed, and other meet and orderly person admitted in his room : *Provided*, this act be in force, and so continue for the space of seven years, from the publication thereof, and no longer.

An ordinance for the regulation of public Porters and Handcartmen. [*Passed Sept. 18, 1826.*]

[5] SEC. 1. *Be it ordained by the Mayor, Aldermen and Common Council of the City of Boston, in City Council assembled,* That no person shall follow the business of a public Porter or Handcartman in the city of Boston, without being licensed as such by the Mayor and Aldermen for the time being, under a penalty of five dollars for every such offence.

[6] SEC. 2. *Be it further ordained,* That the Mayor and Aldermen of said city, for the time being, may from time to time, grant licenses to such persons as shall produce to them satisfactory evidence of their good character, to follow the business of public porter or handcartmen in this city ; and such license shall continue in force until the first day of May, after the date thereof, unless sooner revoked by the Mayor and Aldermen, (which they have authority to do,) and no longer.

[7] SEC. 3. *Be it further ordained,* That the Mayor and Aldermen be, and they are hereby authorized and empowered to appoint, from time to time, as occasion may require, such and so many stands for handcarts and wheelbarrows, as to them shall appear requisite, and no owner or person using such handcart or wheelbarrow, (the same being intended to carry for hire,) shall stand in any other place with his handcart or wheelbarrow, than such as has been, or shall be directed and established by the Mayor and Aldermen, in pursuance of this ordinance, unless such owner shall first obtain the consent of the Mayor and Aldermen of the city so to place the same ; and whoever shall offend against any provision of this section shall forfeit and pay for each offence, a sum not less than one dollar, nor more than three dollars.

[8] SEC. 4. *Be it further ordained,* That every handcart, wheelbarrow, or handbarrow belonging to any individual of the city, and intended to carry for hire shall be marked with the initials of the christian, and the whole of the surname, of the owner or owners of the same, and the number of his license strongly and legibly in paint, upon a plate of tin or iron, which names shall be placed upon some conspicuous part of every handcart, wheelbarrow, and handbarrow, so as to be clearly visible and discernable to all persons passing and repassing the streets during the day time, and the names and numbers herein required, to be marked and painted upon all handcarts, wheelbarrows, and handbarrows, shall be renewed as often as they become defaced, or indistinct ; and whoever shall offend

against any provision of this section shall forfeit and pay for each offence, a sum not less than one dollar, nor more than three dollars.

[9] SEC. 5. *Be it further ordained*, That no public porter or handcartman shall ask, demand, or receive any exorbitant, unreasonable, or unusual rate or price for transporting any article or articles ; and no public porter or handcartman shall neglect or refuse to transport any article for a reasonable and customary price, when required, unless he shall be actually otherwise engaged or employed, or unless the distance he shall be required to go shall exceed two miles ; and no public porter or handcartman shall practice or be guilty of any deceit, fraud, or imposition whatsoever ; and whoever shall offend against any provision of this section, shall forfeit and pay for each offence, a sum not less than one dollar, nor more than five dollars.

[10] SEC. 6. *Be it further ordained*, That no public porter or handcartman, shall permit or suffer any other person, except one of good character, and regularly employed by him, to carry any article or articles in his handcart, wheelbarrow, or handbarrow, under the penalty of two dollars for each offence.

[11] SEC. 7. *Be it further ordained*, That all orders and by-laws heretofore made and passed by the inhabitants of the town of Boston ; and all orders and ordinances heretofore made and passed by the City Council of the City of Boston, on the subjects of this ordinance be, and the same are hereby repealed.

CHAPTER XXXVIII.

Schools.

ORDINANCE OF THE CITY.

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| <p>[1] <i>School Committee to elect and remove Instructors and to have the powers of School Committees and Selectmen of towns, &c.</i></p> | <p>[2] <i>Prohibited expending more than the amount appropriated.</i></p> <p>[3] <i>Repealing clause.</i></p> |
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An ordinance providing for the election and providing for the compensation of instructors in the public schools.

[Passed March 24, 1822.]

[1] *Be it ordained by the Mayor, Aldermen and Common Council of the City of Boston in City Council assembled,* That the School Committee be, and hereby are authorized to elect all such Instructors as they may think necessary, for the public schools, and to determine the amount of their respective salaries ; also to remove any instructor from said schools, when in their discretion it may be proper ; and generally to execute all the powers, which the Selectmen of towns or School Committees are authorized by the laws of this Commonwealth to exercise.

An ordinance in addition to an ordinance providing for the election and compensation of Instructors in the public schools.

[Passed March 23, 1830.]

[2] SEC. 1. *Be it ordained by the Mayor, Aldermen and Common Council of the City of Boston, in City Council assembled,* That the School Committee, be, and they hereby are authorized to distribute the annual sum which shall be appropriated by the City Council for salaries of instructors in the public schools, so fixing the amount of the salary of each instructor, as that in no case shall the aggregate amount of all said salaries exceed the whole sum which shall have been so appropriated by said Council.

[3] SEC. 2. *Be it further ordained,* That so much of all ordinances and by-laws heretofore passed, as are inconsistent with this ordinance be and the same are hereby repealed.

CHAPTER XXXIX.

City Seal.

[1] *Device, inscription, &c. of the Seal of the City.*

An ordinance to establish the City Seal.

[*Passed Jan. 2, 1823.*]

[1] *Be it ordained by the Mayor, Aldermen and Common Council of the City of Boston, in City Council assembled, That the design hereto annexed, as sketched by John R. Pen- niman giving a view of the city, be the device of the city seal ; that the motto be as follows, to wit : “ Sicut patribus, sit Deus nobis ;” and that the inscription be as follows, to wit : “ Bos- tonia condita, A. D. 1630. Civitatis regimine donata, A. D. 1822.”*



CHAPTER XL.

Common Sewers and Drains.

ACTS OF THE LEGISLATURE.

[1] *Streets not to be dug up for drains, &c. without consent of Selectmen.*

[2] *Materials of drains to be established by Selectmen. Persons benefited by private drains, &c. to pay proportion of expense of making them.*

[3] *Repairs of drains, &c. to be paid by persons benefited. Notice to be given that repairs are necessary.*

[4] *Repealing clause.*

[5] *South Cove Company to extend common sewers and drains.*

ORDINANCE OF THE CITY.

[6] *Common sewers to be laid, &c. at the expense of the City.*

[7] *Persons benefited by common sewers to pay expense of laying and repairing the same.*

[8] *City Marshal to superintend common sewers—to ascertain their mode of construction, &c.—to make a plan and record, &c.—to obtain valuation from Assessors—to report to Auditor.*

[9] *Auditor of Accounts to keep an account of expense of common sewers—to assess the same—to report to Mayor and Aldermen and collect the same.*

[10] *Expense already due, to be assessed and collected by Marshal and Auditor.*

[11] *Auditor to employ assistant.*

[12] *Construction of Common sewers—size.*

[13] *Particular drains, their mode of construction.*

[14] *Particular drains to be made at expense of owners, &c. of adjoining land—Penalties.*

[15] *Roofs, water from may be conducted into common sewers.*

[16] *Entering drain into common sewer, without permission—penalty for.*

[17] *Common Sewers gone to decay, how to be repaired.*

[18] *Bills for expense of common sewers to be made out and presented by Auditor—to be given to City Solicitor, if not paid within sixty days.*

[19] *Repealing clause.*

An act for regulating Drains and Common Shores.

[*Passed Feb. 20, 1797.*]

[1] SEC. 1. *Be it enacted by the Senate and House of Representatives in General Court assembled and by the authority of the same,* That if any person shall dig or break up the ground in any highway, street, or lane in any town, for the laying, altering, repairing, or amending of any drain or common shore, without the consent of the selectmen of the town, signified in writing under the hand of the town clerk, such person shall forfeit and pay *four dollars* for each offence, to the use of the poor of the town, to be recovered, with costs of suit, in an action of debt, by the treasurer thereof, before any disinterested Justice of the Peace in the County.

[2] SEC. 2. *Be it further enacted,* That all drains and common shores for the draining of cellars, which shall hereafter be made or repaired in any streets or highways, shall be substantially done with brick or stone, or with such other materials as the selectmen of the town shall permit, and in such manner as the selectmen shall direct. And when any one or more of the inhabitants of any town shall, by the consent, and under the direction aforesaid, at his or their own charge, make and lay any common shore or main drain, for the benefit of themselves and others who may think fit to join therein, every person who shall afterwards enter his or her particular drain into the same, or by any more remote means, shall receive any benefit thereby, for the draining of their cellars or lands, shall be held to pay the owner or owners of such common shore or main drain, a proportionable part of the charge of making or repairing the same, to be ascertained and determined, by the selectmen of the town or a major part of them, and certified under their hands; saving always to the party aggrieved at any such determination, a right of appeal to the Court of the General Sessions of the Peace.

[3] SEC. 3. *Be it further enacted,* That when any common shore or main drain shall be stopped or gone to decay, so that it shall be necessary to open the same in order to repair it or remove such stoppage, all the persons who shall be benefited by such repairs or removal of obstructions, shall be held to pay their proportionable parts of the expenses thereof as well those who do not, as those who do cause such repairs to be made, or obstruction removed; to be ascertained and determined by the selectmen as aforesaid, saving an appeal as aforesaid. And each person so held to pay his or her part, shall have notice thereof, of the sum, and to whom to be paid; and if such person shall not pay the same within ten days after such notice.

to the person appointed by the selectmen to receive it, he or she shall be held to pay the person so appointed, double the sum mentioned in such certificate, with all cost arising upon such neglect; and such person is hereby empowered to bring an action or actions for the same accordingly: *Provided, always*, that the person or persons who shall have occasion to open any common shore or main drain in order to clear and repair the same, shall, seven days at least before they begin to open the same, notify all persons interested therein, by advertising in such manner as the selectmen may direct, that they may, (if they think proper,) object thereto, and lay their objections in person or writing before the selectmen; and if the selectmen or the major part of them shall judge the objections reasonable, then the person or persons, making the same, shall not be held to pay any part of such expenses; but if they do not make their objections as aforesaid to the selectmen, within three days after being so notified, or if they shall deem the objections not to be sufficient, then they shall, under their hands, give liberty to the persons applying to proceed to open such common shore or main drain, and clear and repair the same; and all interested therein shall pay their proportions, as is provided in this act: *Provided, also*, that nothing in this act shall be understood or construed to affect or make void, any covenants or agreements already made, or that may hereafter be made among the proprietors of such drains or common shores.

[4] SEC. 4. *Be it further enacted*, That this act shall take effect and be in force on and after the first day of July next; and that an act passed Anno Domini one thousand seven hundred and nine, for regulating drains and common shores, and another act passed Anno Domini one thousand seven hundred and sixty-three, in addition thereto, and continued in force to the first day of November next, be repealed on and after the first day of July, except as to the enforcing payment of such forfeitures, as may before that time accrue by virtue thereof.

Extract from] “An act to establish the South Cove Corporation.” [*Passed Jan. 31, 1833.*]

[5] SEC. 11. *Be it further enacted*, That said corporation shall be holden to extend and carry out all drains and common sewers which have their present termination in said cove, before they shall so fill up said cove as to obstruct and af-

fect their use ; and the same shall be done in such manner as shall be approved by the Mayor and Aldermen of the city of Boston. And if any other drains or common sewers shall from time to time hereafter be made by said Mayor and Aldermen into said cove, as far as it shall have been filled up at the time of making such other drains or common sewers, and the said corporation shall thereafter further proceed to fill up said cove beyond the termination of such other drains or common sewers, then the said corporation shall be further holden to extend and carry out from time to time, such other drains and common sewers before the said cove shall be farther filled up, so that the said filling up shall not obstruct and affect the use of such other drains and common sewers.

An Ordinance relative to Sewers and Drains.

[*Passed Feb. 13, 1834.*]

[6] SEC. 1. *Be it ordained by the Mayor, Aldermen and Common Council of the City of Boston, in City Council assembled,* That all common sewers, which shall hereafter be considered necessary by the Mayor and Aldermen, in any street or highway, in which there is at present no common sewer, shall be made and laid, and, together with all common sewers owned by the City, shall be forever kept in repair, at the expense of the City, and under the direction of the Mayor and Aldermen.

[7] SEC. 2. *Be it further ordained,* That every person who has entered, or shall hereafter enter his or her particular drain into any common sewer owned by the City, or shall be, or has been, otherwise benefited thereby, shall be held to pay the City such sum of money as is their just proportion of the expense of making said common sewer, having reference always to the last valuation in the Assessors' Books previous to the expenditure ; and in case of any subsequent repair of such common sewer, the amount of such repair shall be assessed on those whose particular drains connect therewith, or who are otherwise benefited thereby, in such amount as may be just and reasonable as aforesaid.

[8] SEC. 3. *Be it further ordained,* That it shall be the duty of the City Marshal under the direction of the Mayor and Aldermen to take the general superintendence of all common sewers which are now, or hereafter may be, built and owned by the City, or which may be permitted to be built or opened

by its authority ;—and whenever any common sewer is ordered to be built or repaired, to cause to be ascertained its depth, breadth, mode of construction, and general direction, and a plan thereof to be taken, and inserted, with all these particulars, in a book to be kept for that purpose ;—and previously to the closing of any common sewer, to cause all the entries made into such sewer, and general relations to it, and to the adjoining estates, to be ascertained, and inserted on such plan ;—and to obtain from the Assessors' Books, the valuation of all such estates as shall be benefited thereby, and make a report of all these particulars to the Auditor of Accounts.

[9] SEC. 4. *Be it further ordained*, That it shall be the duty of the Auditor of Accounts, to keep an accurate account of the expense of constructing each common sewer, and, on receiving the report of the City Marshal relating thereto, to assess the expense upon the persons and estates deriving benefit therefrom, in conformity with the provisions of this ordinance, and the laws of the Commonwealth ;—and, after having completed such assessment, he shall report the same to the Mayor and Aldermen ;—and, if sanctioned by them, he shall enter the same in books to be kept for that purpose, and proceed forthwith to collect such assessments.

[10] SEC. 5. *Be it further ordained*, That, for the purpose of making and collecting assessments for common sewers heretofore constructed by the City, the expenses of which have not already been assessed and collected, it shall be the duty of the City Marshal and the Auditor of Accounts to proceed, in relation to all such sewers in the same manner as they are by this Ordinance directed to proceed in relation to those which may hereafter be constructed.

[11] SEC. 6. *Be it further ordained*, That the Mayor and Aldermen may authorize the employment of such assistants by the Auditor of Accounts, as they may deem necessary, to enable him to perform the duties assigned him by this ordinance.

[12] SEC. 7. *Be it further ordained*, That all common sewers shall be laid as nearly as possible, in the centre of the street or highway and shall be built of brick or stone, or such other materials and of such dimensions as the Mayor and Aldermen shall direct. And where it is practicable, it shall always be of sufficient size to be entered and cleared without disturbing the pavement above.

[13] SEC. 8. *Be it further ordained*, That all particular drains which shall hereafter enter into such common sewer shall be built of brick or stone, or such materials as the Mayor and Aldermen shall direct ; and shall be laid under the direction of the said Mayor and Aldermen ; and they shall be laid in such

direction, of such size, and with such descent, and (where required) with such strainers as they shall require ; and shall, if practicable, be of a size sufficient to be cleared from the common sewer without disturbing the pavement above.

[14] SEC. 9. *Be it further ordained*, That the Mayor and Aldermen shall have power in all cases where there is any common sewer in any street or highway, to cause every owner of land adjoining such street or highway, his agent or tenant, to make a sufficient drain from his house, yard, or lot, whenever in their opinion, the same shall be necessary, and shall thereupon give such owner, agent, or tenant, notice in writing, specifying the time within which such drain shall be completed : And in case the said owner, agent, or tenant, shall neglect to complete the same within the time specified, the Mayor and Aldermen shall cause the same to be done ; and shall recover the whole amount of the expense thereof, together with *ten per cent.* damages, by an action of the case, to be brought by the Mayor and Aldermen, in the name and behalf of the City of Boston, before any court proper to try the same : *Provided*, however, that in no case shall *ten per cent.* claimed by way of damage, exceed the sum of *twenty dollars*.

[15] SEC. 10. *Be it further ordained*, That it shall be lawful for all persons having the care of any buildings, at their own expense, to carry the rain water from the roofs of said buildings, into any common sewers, free of any charge from the City : *Provided* that the same be done by tight water spouts and tubes under ground and under the direction of the Mayor and Aldermen.

[16] SEC. 11. *Be it further ordained*, That every person entering his or her particular drain into any common sewer without a permit in writing from the Mayor and Aldermen, or some person authorized by them, first had and obtained, shall forfeit and pay the sum of twenty dollars ; and shall also be liable to pay all such damage by way of indemnification, to the City, or to the proprietors of the common sewer, as the Mayor and Aldermen shall deem just and reasonable.

[17] SEC. 12. *Be it further ordained*, That whenever any common sewer shall go to decay, and the Mayor and Aldermen, shall deem it necessary to rebuild or repair the same, they shall have power to cause the same to be done under their direction ; and to assess the amount of such rebuilding or repairs, upon the owner, agent or tenant, as is in the foregoing ordinance provided for the case of streets in which there is no common sewer.

[18] SEC. 13. *Be it further ordained*, That it shall be the duty of the Auditor after the bills are made out, to present

the same to the persons whose drains have entered the common sewer or have been otherwise benefited thereby for payment, and all bills or dues under this ordinance which shall remain unpaid at the expiration of sixty days—shall be handed to the City Solicitor for Collection forthwith.

[19] SEC. 14. *Be it further ordained*, That “an ordinance relating to Drains and Common Sewers,” and all orders and ordinances relating to the same subject and inconsistent with the provisions of this ordinance, be and the same hereby are repealed excepting so far as may be necessary for the recovery of any penalty already incurred for the breach thereof.

CHAPTER XLII.

Streets.

ACTS OF THE LEGISLATURE.

[1] *Streets to be paved, &c.* (see post 18)—foot path to be one sixth the width of the street, (altered, see post 19)—exception as to foot paths in squares, &c.

[2] *Owners to pave their sidewalks, with bricks, &c.* (see post 10)—provision for persons affected by new paving of streets—planks may be used before vacant lots.

[3] *Streets to be laid out, widened, &c. by Selectmen and buildings removed.*

[4] *Balcony, &c. not to project more than three feet into the street.*

[5] *Posts and trees not to be set in the streets—Horses, &c. not to be driven on foot paths—porticos, signs, &c. not to project more than one foot.*

[6] *Merchandize, &c. not to be placed in the streets.*

[7] *Carriages, &c. not to be left in the street. Proviso as to carts, &c. coming from the country.*

[8] *Distribution of Penalties.*

[9] *New streets to be laid out by Selectmen, streets to be widened when safety or convenience require it—owners of land to be indemnified.*

[10] *Foot paths to be supported by hammered stone.*

[11] *Stands for carriages, &c. to be appointed by Selectmen.*

[12] *Rules and regulations for carriages to be made by Selectmen. Penalty.*

[13] *Discontinuance of streets to be made by Selectmen.*

[14] *Previous orders for discontinuance of streets made valid.*

[15] *Record of streets to be made.*

[16] *Raising up of goods from the streets prohibited or delivering the same from second story, &c. Penalty.*

[17] *Surveyors of Highways—Mayor and Aldermen may be chosen as such.*

[18] *Macadamizing of streets allowed instead of paving.*

[19] *Width, &c. of sidewalks may be regulated by Surveyors of highways if authorized by City Council—sidewalks may be accepted by city—to be kept in repair after acceptance.*

[20] *Broad street and Commercial street may be extended over docks by Mayor and Aldermen.*

[21] *Compensation to be paid for damages.*

[22] *Ornamental trees in streets, penalty for injuring.*

ORDINANCES OF THE CITY.

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| <p>[23] <i>Superintendent of streets when and how chosen—compensation, &c.</i></p> <p>[24] <i>Duties of.</i></p> <p>[25] <i>Streets not to be broken up without a permit.</i></p> <p>[26] <i>To be repaired after drains have been laid.</i></p> <p>[27] <i>Drains and aqueducts, laying of, &c.</i></p> <p>[28] <i>Lots on streets to be set off for purposes of building.</i></p> <p>[29] <i>Carriages not to stand across flag stones.</i></p> <p>[30] <i>Wood not to remain in streets.</i></p> <p>[31] <i>Not to be sawed or piled on side walks.</i></p> <p>[32] <i>Foot-balls, throwing stones, &c.—penalty for.</i></p> <p>[33] <i>Gaming, &c. in streets and public places—penalty for.</i></p> <p>[34] <i>Coursing or coasting in streets—penalty for.</i></p> <p>[35] <i>Projection of steps, cellar doors, &c.—penalty for.</i></p> <p>[36] <i>Goods, &c. not to project beyond a foot.</i></p> <p>[37] <i>Trunks, boxes, &c. not to remain in streets—proviso as to auctions.</i></p> | <p>[38] <i>Collecting street dirt, &c.—penalty for.</i></p> <p>[39] <i>Not removing snow from side walk—penalty for.</i></p> <p>[40] <i>Ice or snow not to be thrown into streets unless, &c.</i></p> <p>[41] <i>Signs not to project, &c.</i></p> <p>[42] <i>Awnings and shades.</i></p> <p>[43] <i>Dirt, &c. not to be placed in the streets.</i></p> <p>[44] <i>No carts to stand in streets, &c. except licensed.</i></p> <p>[45] <i>Swimming, &c. in exposed places.</i></p> <p>[46] <i>Sidewalks may be regulated and accepted by Surveyor of highways.</i></p> <p>[47] <i>To be maintained at expense of City, provided certain repairs be made by owners.</i></p> <p>[48] <i>City Clerk to keep register of.</i></p> <p>[49] <i>Handcarts, &c. not to be drawn on sidewalks.</i></p> <p>[50] <i>Penalties how to be recovered.</i></p> <p>[51] <i>Repealing clause.</i></p> <p>[52] <i>Names of Streets to continue until altered by the Mayor and Aldermen.</i></p> |
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An act to regulate the paving of streets in the town of Boston, and for removing obstructions in the same.

[Passed June 22, 1795.]

[1] SEC. 1. *Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, That all streets shall hereafter be paved in the town of Boston agreeable to the following regulations, viz. The foot path or walk on each side of every street, shall be of the breadth of one sixth part of the width of the whole street, and shall be laid or paved with bricks or flat stones, and secured*

with a beam or cut stone along the out side thereof: and the middle or remaining four sixths of every street, shall remain as a passage-way for carriages of burden or pleasure; and shall have a gutter on each side thereof, or otherwise as the surveyors of highways in the said town shall determine; and shall be paved with good and sufficient paving stones: *Provided, always* that if in any street so to be paved, the sides shall not exactly range, the gutter or out side of the foot walk shall be laid out as nearly in a straight line, as the street will admit of; and in all squares, and other large open spaces, and in all streets the breadth of which shall not conform to this law, the breadth of the foot walk, and the ascent and descent, and the crowning of the pavement in every street, shall be regulated by the surveyors of highways.

[2] SEC. 2. *And be it further enacted*, That where the cartway in any public streets, shall be hereafter ordered to be paved, every owner of the lot or lots of ground upon such street, shall, without delay, at his own cost, cause the footway in front of his ground to be paved with bricks or flat stones, and supported by (timber or) hewn stones, and kept in repair; the same to be done under the direction of, and to the approbation of the surveyors of highways; and if the owner or owners of such lots shall neglect to pave with bricks or flat stones and to support the footway, for the space of twenty days after he or the tenant of such lot, or the attorney of the said owner or owners, shall have been thereto required by any of the surveyors of highways, then it shall be lawful for the said surveyors of highways, and they are hereby enjoined and required to pave the said footways with brick or flat stones, and to support and to defend the same, and to repair the same; and shall recover the whole amount thereof by action of the case to be brought by the surveyors of highways, before any court proper to try the same: *Provided, nevertheless*, that in all cases where applications may be made for new paving of streets, any individuals who may be affected thereby, may make their objections to the selectmen, or surveyors of highways, who are directed to take them into consideration while deliberating upon the expediency of said application, and to pave the same at the expense of said town wherever they shall think it expedient: *Provided, also*, that where there are any vacant lots of land in any such streets, the surveyors of highways may, at their discretion, allow the owner or owners thereof to cover the foot-path with planks, which shall be removed, and the brick, or flat stone pavement shall be completed, whenever it may become necessary in the judgment of said surveyors.

[3] SEC. 3. *And be it further enacted*, That the "Selectmen" of the said town of Boston [*Power transferred to the Mayor and Aldermen*] for the time being, whenever in their opinion the safety and convenience of the inhabitants of said town shall require it, shall be, and they hereby are empowered, to lay out or widen any street, lane or alley of said town; and for that purpose, to remove any building or buildings of what nature soever; and the owner or owners of such building, shall be entitled to receive compensation for the damages which he or they may sustain by such removal, which damages shall be ascertained, determined, and recovered in the way and manner pointed out in the act of this Commonwealth, entitled "An act directing the method of laying out highways."

[4] SEC. 4. *And be it further enacted*, That no canopy, balcony, platform or cellar door, or step in any street, lane, or alley in the town of Boston, shall project into such street, more than one tenth part of the width of the street, and in no case more than three feet; and all cellar doors hereafter to be made or repaired, shall be built with upright cheeks, and shall not project from the line of the house, more than six inches; and if any proprietor or owner of any such canopy, balcony, platform, or cellar door, or steps, shall refuse or neglect to remove or take down the same, within five days after notice and direction given him or them by the surveyors of highways, or any person empowered by them to that purpose, such owner or proprietor, shall forfeit and pay the sum of two dollars, for each and every day the same shall remain after the expiration of the said five days.

[5] SEC. 5. *And be it further enacted*, That no post shall be erected or set in any of the streets of the said town of Boston, except at the corner or intersection of two streets, and in such other places as the surveyors of highways may authorize and direct, and the said surveyors may remove the same; and no person shall plant any tree in any street in the said town of Boston, without leave first obtained from the surveyors of highways, who shall have power to remove the same: And if any person shall drive any horse or cart, or any wheel carriage of burden or pleasure, or wheel any wheelbarrow on the footwalk of any street in said town of Boston, such person shall forfeit and pay the sum of one dollar for every such offence, to be recovered by action of debt in the name of the surveyors of highways, before any Justice of the Peace in the County of Suffolk; and no person shall in future make, erect, or have any portico or porch, any bow window, or other window, which shall project into the streets of the said town of Boston, more than one foot beyond the front of his or her house; or hang any sign, or

any goods, wares, or merchandize, which shall project into the street more than one foot beyond the front of his or her house or lot; and if any person shall hereafter offend against this provision, every person so offending, shall forfeit and pay the sum of one dollar for each and every day, such portico or porch, bow-window, or other window shall be continued, after notice given to him by the surveyors of highways, or by any person by them authorized to that purpose.

[6] SEC. 6. *And be it further enacted*, That if any person or persons shall continue to place in the street, contrary to the meaning of this act, any goods, wares, or merchandizes, it shall be lawful for the surveyors of highways of the said town of Boston, or any person empowered by them, to remove such goods, wares, and merchandizes, and to keep them in safe custody; and the proprietor or owner of such goods, wares, and merchandize shall not have the same goods restored, until he or they shall have paid to the person or persons so removing them, all expenses of removing and storing them, and a reasonable compensation for the time so employed in their removal, as well as the fine aforesaid: And if any person shall place or pile any empty boxes, barrels, hogsheads, or other conveniency capable of containing goods or merchandize, or that may have contained goods or merchandize, in any part of the streets of the said town of Boston, more than five minutes after notice given to remove the same, such person shall forfeit and pay the sum of two dollars, for each and every such offence, to be recovered by action of debt, by the surveyors of highways, before any Justice of the Peace in said county.

[7] SEC. 7. *And be it further enacted*, That if any driver, owner, or person having the ordering or care of any cart, wagon, stage, or hackney coach, stage wagon, or other carriage, new or old, finished or unfinished, shall suffer the same to be and remain in any street, lane, or alley, of the said town, more than one hour after the same shall have first been placed there, unless by the permission of the surveyors of highways, every such owner, driver, or person having the care or ordering of such carriage as aforesaid, shall forfeit and pay the sum of one dollar for each and every such offence, to be recovered as above directed: *Provided, nevertheless*, that no prosecution shall be commenced against any driver of any cart or wagon coming from the country, unless by the particular direction and order of the Selectmen.

[8] SEC. 8. *And be it further enacted*, That all the forfeitures and fines which may be recovered in pursuance of this act, shall go and be distributed, one moiety thereof to the poor of the town of Boston, and the other moiety to the surveyors of the highways.

An act in addition to an act, entitled "An act to regulate the paving of Streets in the town of Boston, and for removing obstructions in the same." [*Passed March 4, 1805.*]

[9] *Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same,* That the Selectmen of the town of Boston [*Mayor and Aldermen*] for the time being, whenever in their opinion the safety or convenience of the inhabitants of said town shall require it, shall be, and they hereby are empowered to lay out any new street, or to widen any street, lane or alley of said town, and for that purpose to take any land that may be required for the same, and to remove any building or buildings of what nature soever; and the same street, lane or alley being recorded in the town's books, shall be thereby established as such; and the owner or owners of the land or buildings that shall be so taken or removed, shall receive such recompense for the damages which he or they may thereby sustain, as the party interested and the Selectmen shall agree upon, to be paid by the town, or the individual person or persons for whose use such street, lane or alley is laid out or widened, or as shall be ordered by the Justices of the Court of General Sessions of the peace, upon an enquiry into the same by a Jury to be summoned for that purpose; who shall be drawn out of the Jury box of the Supreme Judicial Court of the town of Boston, by the Selectmen of said town, upon the application of the Sheriff of the County of Suffolk; and if by accident or challenge, there should happen not to be a full jury, said officers shall fill the pannel, *de talibus circumstantibus*, as in other cases; or by a special committee, if the parties agree thereunto.

An act in addition to the several acts now in force to regulate the paving of Streets in the town of Boston and for removing obstructions in the same. [*Passed June 19, 1809.*]

[10] SEC. 1. *Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That in paving or repairing the pavement in any street in the town of Boston, in future, no person shall place timber or wood in front of his or her house or lot, to support the foot walk, but the same shall be supported with hammered or cut stone, any thing in the second section of the

act to which this is in addition, passed the twenty-second day of June in the year of our Lord one thousand seven hundred and ninety-nine, to the contrary notwithstanding.

[11] SEC. 2. *Be it further enacted*, That the Selectmen [*Mayor and Aldermen*] of the town of Boston, shall be, and they are hereby empowered to appoint suitable places in the streets or squares of said town, in which all wagons, carts, sleds or other carriages, shall be directed to stand.

[12] SEC. 3. *Be it further enacted*, That said Selectmen [*Mayor and Aldermen*] shall have power from time to time, to make and adopt such rules and orders for the due regulation of all such carriages in the streets of the town of Boston as to them shall appear necessary and expedient ; which rules and orders shall be published, at least one week, in two of the newspapers printed in said town ; and any owner or driver of any carriage, who shall offend against any such rule and order so adopted and published, shall forfeit and pay a sum not exceeding five dollars, to be recovered upon complaint of either one of the Selectmen or said town of Boston before any one of the Justices of the Peace for the County of Suffolk ; and all such fines and forfeitures shall be paid for the use of the person prosecuting for the breach of any such rule or order.

An act in further addition to an act, entitled “ An act to regulate the paving of Streets in the town of Boston, and for removing obstructions in the same.”

[*Passed Dec. 13, 1816.*]

[13] SEC. 1. *Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same*, That the Selectmen [*Mayor and Aldermen*] of the town of Boston, for the time being, whenever in their opinion the safety or convenience of the inhabitants of said town shall require it, shall be and they hereby are empowered to discontinue any street, lane or alley of the said town, or to make any alteration in the same, in part or in whole ; reserving however, in all cases, to individuals who may sustain damage thereby, recompense for the same, to be ascertained and allowed in the same manner as is provided in the act, entitled “ An act in addition to an act, entitled “ an act to regu-

late the paving of streets in the town of Boston, and for removing obstructions in the same."

[14] SEC. 2. *Be it further enacted*, That all orders, votes and determinations of the said Selectmen of the town of Boston, heretofore had and passed for the discontinuance of any street, lane or alley of said town, or respecting any alteration in the same, in whole or in part, shall be held and considered as good and valid to all intents and purposes, as if the said act to which this is in addition, had explicitly vested said authority in the said Selectmen; reserving always to individuals recompense for damages sustained thereby as is provided in the said act.

[15] SEC. 3. *Be it further enacted*, That the Selectmen of the town of Boston shall keep a record of all the streets, lanes and alleys of the said town, and of all votes and proceedings relative to the same; and that copies thereof, certified by the town Clerk, shall be valid to all intents and purposes.

[16] SEC. 4. *Be it further enacted*, That from and after the passing of this act, no person shall raise up from any street, wharf, or place of public resort, within the town of Boston, for the purpose of storing the same, any cask, bale of goods, or other articles of merchandize, into the second or any higher story of any house, store, or other building upon or adjoining the same, and on the outside of such buildings; and that no person shall deliver, from the second or any higher story of any house, store, or other building on the out side of the same, which shall adjoin upon any street, wharf or place of public resort, within the said town of Boston, any cask, bale of goods, or other article of merchandize, except at such times and places, and under such restrictions and limitations, as the Selectmen [*Mayor and Aldermen*] for the time being shall, by writing authorize and direct. And every person who shall offend in manner aforesaid, shall forfeit and pay to the Commonwealth, for each and every such offence, a sum not exceeding one hundred dollars, nor less than ten dollars, to be recovered by indictment in the Municipal Court for the town of Boston, with costs of prosecution: *Provided*, that this shall not be construed to extend to the raising any materials or other articles which may be necessary in erecting, repairing or taking down any building within the said town of Boston, or for the convenience thereof, or for removing any merchandize or other article in case of danger by fire, or other inevitable casualty.

An Act concerning Surveyors of Highways in Boston.
[*Passed June 10, 1823.*]

[17] *Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same,* That the City Council of the City of Boston, shall have the power and authority of electing, if they see fit, the Mayor and Aldermen of the City, Surveyors of Highways for said city, any thing in the act establishing the city of Boston to the contrary notwithstanding.

An Act in further addition to the several Acts regulating the Paving of Streets in Boston. [*Passed June 13, 1831.*]

[18] *Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same,* That the Surveyors of Highways of the City of Boston, whenever they shall judge it expedient, may order any street of said city to be macadamized and the several provisions of an act entitled, "An act to regulate the paving of streets in the town of Boston, and for removing obstructions in the same," passed on the twenty-second day of June, in the year of our Lord one thousand seven hundred and ninety-nine, and of the several acts in addition thereto, shall be deemed and taken to apply to streets ordered to be macadamized, as well as to streets ordered to be paved in said city, and the macadamizing of any of said streets shall, to all intents and purposes of said several acts, be deemed equivalent to the paving of the same, and shall create the same liabilities in all respects, under the said several acts, as would be created under them by the paving of such streets.

An Act in addition to the several Acts respecting the Streets of Boston. [*Passed March 16, 1833.*]

[19] *Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same,* That the City Council of the city of Boston, may, from time to time, by any ordinance or ordinances, empower the sur-

veyors of highways of said City so to regulate the width and height of the sidewalks of any public squares, places, streets, lanes or alleys, in said city, as shall, in the judgment of said surveyors, be most conducive to the convenience and interest of said city, any law of the Commonwealth to the contrary notwithstanding; and may also empower said surveyors to accept such sidewalks, after the same shall be put in good and perfect repair by the abutters on said squares, places, streets, lanes and alleys, and after the same shall have been relinquished in writing to the said city by such abutters; and may also order, that, after such relinquishment such sidewalks may be maintained at the expense of said city.

An Act authorizing the Mayor and Aldermen of the city of Boston to lay out certain Streets.

[*Passed March 26, 1833.*]

[20] SEC. 1. *Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same,* That the Mayor and Aldermen of the city of Boston, are hereby authorized to lay out a new street, in continuation of Broad street, beginning at or near the present easterly end of said Broad street, and thence running partly over the margin of Fort Hill, and over other land near the harbor of Boston, to a point, at or near the place where Summer street meets Sea street; and also to lay out a new street extending from the present termination of Commercial street, near Lewis's wharf, so called, to the marine railway on Ann street. And the said streets shall be laid out respectively, of such widths, in such directions, and through and over such docks, now used for the purposes of navigation, as the public safety or convenience of the inhabitants of said city, shall, in the opinion of said Mayor and Aldermen, require.

[21] SEC. 2. *Be it further enacted,* That the owner or owners of any building, wharf, or other erection, which may be removed, and of any land which may be taken for the said streets, when the same cannot be obtained by voluntary agreement, shall be entitled to receive compensation for damages, if any, which he or they may sustain by such removal or taking; which damages shall be ascertained, determined and recovered, in the way and manner now provided in the act entitled "An act directing the method of laying out highways."

An Act to secure to the public the benefit of Ornamental Trees.

[*Passed March 5, 1830.*]

[22] *Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same,* That from and after the passing of this act, if any person shall wantonly, and without cause, break, cut, mutilate, injure or destroy any tree, standing and growing by the side of any public or private way, and useful to the public for the purposes of ornament or shade, without the consent of the owner of said tree, such person, so offending, shall forfeit and pay, to the use of the Commonwealth, a sum not less than five dollars, nor more than fifty dollars, to be recovered by indictment or information before the Court of Common Pleas in the County where such offence shall have been committed, or the Municipal Court of the city of Boston, if such offence shall have been committed in said City of Boston.

An ordinance establishing the office of Superintendent of Streets, and prescribing the duties thereof; to prevent unlawful and injurious practices in the streets of the City—and in relation to Side Walks. [*Passed Aug. 22, 1833.*]

[23] SEC. 1. *Be it ordained by the Mayor, Aldermen and Common Council of the City of Boston, in City Council assembled,* That in the month of January or February annually, there shall be chosen by a concurrent vote of the City Council, to be first acted upon by the Mayor and Aldermen, an able and discreet person to be styled the Superintendent of Streets, who shall continue in office until removed, or a successor be appointed; who shall receive such compensation for his services as the City Council may authorize and establish; and who shall be removable at all times at the pleasure of the City Council. And in case said office shall become vacant by death, resignation, or otherwise, a successor shall be forthwith chosen in the manner prescribed.

[24] SEC. 2. *Be it further ordained,* That it shall be the duty of the Superintendent of Streets, always under the direction of the Mayor and Aldermen to superintend the general state of the streets, lanes, alleys, public walks and squares

of the city ; to attend to the laying out, widening, elevation, and repairs of the same ; and to make all contracts for the supply of labor and materials therefor ; to receive all applications of the citizens relative to the widening, elevation, improvement, and repairs of the streets, and to give notice to the Mayor or the City Marshal, in case of any nuisance, obstruction or encroachment thereon. To superintend the building and repairs of the common sewers of the City, and to make all contracts for the supply of labor and materials for the same. To take the general care of the City Carts and Stables, and to make all necessary arrangements for cleaning the streets, disposing of manure, and removing house dirt. To superintend all repairs of public buildings ; to take charge of the public wells and pumps ; to make all contracts for fuel for the use of the City ; to take charge of the public school houses—and generally to perform all such duties relative to the premises, and make such record of his proceedings therein, as the Mayor and Aldermen may order and direct.

[25] SEC. 3. *Be it further ordained*, That no person shall break or dig up the pavement or ground in any of the streets, lanes, alleys, squares, or other public places in this city for any purpose whatever, without the license of the Mayor and Aldermen in writing, or some person by them authorized for that purpose, first had and obtained, on pain of forfeiting for each offence a sum not less than three and not more than twenty dollars.

[26] SEC. 4. *Be it further ordained*, That whosoever shall, by virtue of such license, break up the pavement, or dig, or cause to be dug and broken up, any part of the pavement, or any of the ground of any street, lane, alley, public square or place in the city, shall, within such time as the Mayor and Aldermen shall order, after the same is broken or dug up, cause the same to be sufficiently repaired and amended from time to time to the satisfaction of the Mayor and Aldermen, on pain of forfeiting for such offence a sum not less than three nor more than twenty dollars for each and every week thereafter, until the same be amended and repaired as aforesaid.

[27] SEC. 5. *Be it further ordained*, That when any drain or aqueduct shall be opened or laid, and the dirt, gravel or other material therefrom, shall be laid in any street, lane, alley, public square or other public place in the city, the person or persons by whom the said drain or aqueduct shall be opened or laid, shall cause a rail or other sufficient fence to be placed and fixed, so as to enclose such drain or aqueduct, and the dirt, gravel, or other material, thrown into the street, and other places as aforesaid ; and such fence shall be continued

during the whole time such drain or aqueduct shall be open for the purposes aforesaid. And that a lighted lantern, or some other proper and sufficient light, shall be fixed to some part of such fence or in some other proper manner, over such open drain or aqueduct, and the dirt, gravel or other material taken from the same, and so kept from the beginning of the twilight of the evening, through the whole of the night, and shall be continued every evening and night, during all the time such drain or aqueduct shall be open, or in a state of repair; and that whoever shall be guilty of a breach of any part of this section, shall forfeit and pay for each offence a sum not less three and more than twenty dollars.

[28] SEC. 6. *Be it further ordained*, That whenever any person shall intend to erect any building upon land abutting on any of the streets, lanes, alleys, or other public places or squares in this city, or shall intend to repair any building so abutting, such person shall make the same known to the Mayor and Aldermen, or to any person or officer by them empowered, who shall have power and authority to set off or allot such part or portion of the street, or other public places aforesaid, thereto adjoining, as they in their discretion shall think necessary and sufficient for the purpose. And the part or portion so set off or allotted, and no other part of said street, lane, alley, public place, or square, shall be used for laying all the materials for any such building or repairing, and for receiving the rubbish arising therefrom. And all the rubbish arising therefrom or thereby, shall be fully and entirely removed and carried away, at the expense of the person or persons so building or repairing, which shall be done in such convenient time as the Mayor and Aldermen may direct. And all persons offending against any of the provisions of this section, shall forfeit and pay for each offence, a sum not less than three and not more than twenty dollars: *Provided, nevertheless*, that the time granted for any allotment shall not be extended beyond the period of thirty days on one application.

[29] SEC. 7. *Be it further ordained*, That no person or persons shall place any carriage of any description whatever, or any obstruction of any kind, upon or across any of the flag or stepping stones placed for the convenience of foot passengers across any street, lane, or alley, in this city, under a penalty of not less than one nor more than twenty dollars for each and every offence.

[30] SEC. 8. *Be it further ordained*, That neither the purchaser nor seller of any cord wood, or other fire-wood, shall permit or suffer such wood unnecessarily to be and remain in any of the streets, lanes, alleys, or other public places in

this city, after dark in the evening ; nor shall any greater quantity than two loads of such wood in any case, be permitted either by the purchaser or seller thereof, to lay or continue in any street, lane, alley, or other public place. And in case the same must of necessity remain after dark, the purchaser thereof shall cause a sufficient light to be kept or placed over or near the same, throughout the whole of the night, so as to give sufficient notice to all the inhabitants, and thereby prevent injury to all persons passing in the places where such wood may be laid and deposited ; nor shall any person whatever suffer or permit any such wood, at any time, by day or by night, to lay or remain in any street, lane, alley, or other public place or square in the city, so as unnecessarily to obstruct the passage in the same ; and whoever shall be guilty of a breach of any of the provisions of this section, shall forfeit pay for each offence, a sum not less than one dollar, and not more than twenty dollars.

[31] SEC. 9. *Be it further ordained*, That no person shall saw any firewood, or pile the same, upon the foot or side walks of any of the streets or lanes of this city ; and that no person shall stand on any such foot or sidewalk, with his wood-saw or horse, to the hindrance or obstruction of any foot passenger, under a penalty of not less than one dollar, and not more than twenty dollars.

[32] SEC. 10. *Be it further ordained*, That whosoever hereafter shall, at any time, play at foot ball ; or whoever shall be guilty of throwing stones or snow-balls, within any of the streets, squares, lanes, or alleys of this city, shall forfeit and pay, for each offence, a sum not less than fifty cents, and not more than two dollars, to be paid by each offender respectively.

[33] SEC. 11. *Be it further ordained*, That no person shall expose in any of the streets, lanes, alleys, squares or other public places in this city, or on the common, any table or device of any kind whatever, upon, or by which, any game of chance or hazard can be played ; and no person shall play at any such table or device, or at any unlawful game, in any street, lane, alley, or square aforesaid, or on the common, under the penalty of a sum not less than three dollars, and not more than twenty dollars for either of the said offences.

[34] SEC. 12. *Be it further ordained*, That whoever shall exercise the dangerous practice of coursing or coasting upon sleds in any of the streets, or upon any of the sidewalks in this city, shall forfeit and pay for each offence a sum not less than one dollar, and not more than twenty dollars, to be paid by each offender respectively.

[35] SEC. 13. *Be it further ordained*, That from and after the passing of this ordinance, no step in front of any house or other building or of any lot of land, shall be permitted to project into any street, lane, alley, public square or place, in the city, more than one foot from the front of said house or other building, or lot of land, nor shall any cellar door platform rise above the even surface of the sidewalk, under a penalty of four dollars, and the like penalty for each and every week it shall be continued, after the same shall be ordered to be removed by the Mayor and Aldermen.

[36] SEC. 14. *Be it further ordained*, That if any person shall, for any purpose whatever, intentionally place, or cause to be placed ; or shall suspend or cause to be suspended, from any house, shop, store, lot, or place, on or over any public street, lane, court, or alley in this city, any goods, wares, or merchandize whatever, so that the same shall extend or project from the wall or front of said house, store, shop, lot, or place, more than one foot towards, or into the street, lane, alley, court, or public place aforesaid, the person or persons so offending shall forfeit and pay the sum of two dollars for every such offence.

[37] SEC. 15. *Be it further ordained*, That if any person shall place or cause to be placed, any trunk, bale, box, crate, cask, or any package, article, or thing whatsoever, on or over any part of any public street, lane, court or alley in this city, except as is provided in the last preceding section, whether the same shall be exposed for sale there, or otherwise, and shall suffer the same to remain more than three hours after it is first placed there, or more than ten minutes after notice to remove the same, given by the Mayor, or some other person by him authorized, the person or persons so offending, shall forfeit and pay the sum of two dollars for every such offence : *Provided*, that nothing herein contained, shall be deemed to extend to any goods, wares, or merchandize, placed in any street, lane, alley, or court, for the purpose of being sold by auction : *And provided also*, that the proceedings in placing the same, and vending thereof shall conform to the regulations which shall be made by the Mayor and Aldermen on that subject ; and all laws, orders, and regulations, restricting such sales, shall remain unaffected by this ordinance.

[38] SEC. 16. *Be it further ordained*, That no person shall take any quantity of street dirt or manure whatsoever, collected from any street, lane, alley, or public place of the city, without the license of the Board of Aldermen first obtained, under the penalty of four dollars for each and every breach of the provisions of this section.

[39] SEC. 17. *Be it further ordained*, That from and after the passing of this ordinance, the tenant, occupant, and in case there shall be no tenant, the owner of any building or lot of land bordering on any street, lane, court or public place within the city, (excepting that part of the city called South Boston) where there is any footway or sidewalk, shall, after the ceasing to fall of any snow, if in the day-time within six hours, and if in the night-time, before two of the clock in the afternoon succeeding, cause the same to be removed therefrom ; and in default thereof shall forfeit and pay a sum not less than one dollar, and not more than four dollars, for each and every day that the same shall afterwards remain on such footway or sidewalk.

[40] SEC. 18. *Be it further ordained*, That every person who shall lay or throw, or cause to be laid or thrown, any ice or snow into any street, lane, alley, court or public place within the city, shall cause the same to be broken into small pieces, and spread evenly on the surface of such street, lane, alley, court and public place ; and in default thereof, shall forfeit and pay a sum not less than one dollar, nor more than four dollars for every such offence.

[41] SEC. 19. *Be it further ordained*, That from and after the passing of this ordinance, no person shall hang, affix, or fasten any sign on his or her house or lot, which shall project into any of the streets of the city, more than one foot beyond the front of his or her house or lot, or any sign, which at its lowest part is less than eight feet in height above the sidewalk or street, under a penalty of four dollars for such offence ; and the like penalty for every week, it shall be continued after an order to remove the same, given by the Mayor and Aldermen or any person authorized by them.

[42] SEC. 20. *Be it further ordained*, That it shall be lawful for any person to place and fix awnings and shades, made of cloth, before his or her house, shop or store, in any street in the city, conforming as near as may be to the outer line of the side walk ; and to cause such awnings or shades, to be safely fixed and supported, and in such a manner as not to interfere with passengers, which awnings or shades shall always be so fixed and placed, that the lowest part thereof shall be at no time less than seven feet in height, above the side walk or street under the same.

[43] SEC. 21. *Be it further ordained*, That no person shall place or cause to be placed, in any of the public streets, lanes, alleys, or places in this city, any dirt, or rubbish of any kind, whatever, unless by permission of the Mayor and Aldermen, or some officer authorized by them, under the penalty of

not less than one dollar, nor more than twenty dollars, for each offence.

[44] SEC. 22. *Be it further ordained*, That no person having the care of any cart, or other vehicle, shall stand with his cart or other vehicle in any of the streets, lanes, alleys, squares, or other public places of the City, unless duly licensed by the Mayor and Aldermen, under a penalty of not less than one nor more than five dollars.

[45] SEC. 23. *Be it further ordained*, That no person shall swim or bathe in the waters surrounding the city which are adjacent to any of the bridges or avenues leading into the same, so as to be exposed to the view of spectators, under a penalty of four dollars for each offence.

[46] SEC. 24. *Be it further ordained*, That the Surveyors of highways are hereby empowered so to regulate the width and height of the sidewalks of any public squares, places, streets, lanes or alleys in the city, as shall in the judgment of said surveyors, be most conducive to the convenience and interest of the city, and that the said surveyors may accept on such conditions as they shall deem expedient, any sidewalk after the same shall be put in good and perfect repair by the abutters, on any of the squares, places, streets, lanes or alleys, and after the same shall be relinquished in writing to said city.

[47] SEC. 25. *Be it further ordained*, That after such relinquishment and acceptance, such sidewalks shall be maintained at the expense of the city: *Provided*, however, that when any sidewalk shall require repairs in consequence of any defect in the cellar door curb, step or steps, cellar window, cellar wall or from any other cause within the control of the owner or occupant of the estate to which said sidewalk is attached, then and in that case said repairs shall be made at the expense of said owner or occupant, any law to the contrary notwithstanding.

[48] SEC. 26. *Be it further ordained*, That the City Clerk shall keep a book in which the names of the streets shall be alphabetically arranged, and in which all the sidewalks which now are or may hereafter be accepted as aforesaid, shall be entered, with the date of such acceptance, the length and width of such sidewalk, and the names of the owners of the estate to which it belongs, and of the owner or owners of the adjoining estates.

[49] SEC. 27. *Be it further ordained*, That no person shall wheel or draw any hand-cart, wheel-barrow, hand-sled, or other carriage, upon any side walk, within this city under a penalty of not less than one nor more than five dollars for every such offence.

[50] SEC. 28. *Be it further ordained*, That the several penalties provided in this act shall be recovered by complaint before the Justices of the Police Court.

[51] SEC. 29. *Be it further ordained*, That an ordinance establishing the office of Superintendent of streets, and an ordinance to prevent unlawful and injurious practices in the streets of the City—and all other ordinances on the subject of this ordinance be, and they hereby are repealed, except so far as may be necessary for the recovery of any penalty for any breach of the provisions thereof: *Provided however*, that all officers appointed under said ordinances shall continue to hold their respective offices until others are appointed in their place.

An Ordinance concerning the names of the Streets in the City.
[*Passed Jan. 18, 1833.*]

[52] SEC. 1. *Be it ordained by the Mayor, Aldermen and Common Council of the City of Boston, in City Council assembled*, That the several Streets in the City shall continue to be called and known by the names given to them respectively either by the Selectmen of the town of Boston, the Mayor and Aldermen of the City or the City Council, until the same are altered by the said Mayor and Aldermen.

[53] SEC. 2. *Be it further ordained*, That “an ordinance changing the names of certain Streets in the City” and all ordinances in addition thereto be, and the same are hereby repealed.

CHAPTER XLII.

Superintendent of Boston Free Bridge.

ORDINANCE OF THE CITY.

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| [1] Superintendent how appointed—his salary. | draw—taking care—lighting lamps, &c. |
| [2] His duty as to opening | [3] Defacing, &c.—penalty for. |

An Ordinance establishing the office of Superintendent of the Boston Free Bridge, and prescribing the duties thereof.

[*Passed Oct. 21, 1828.*]

[1] SEC. 1. *Be it ordained by the Mayor, Aldermen, and Common Council of the City of Boston, in City Council assembled,* That as soon as may be, after the passing of this ordinance, and afterwards in the month of January or February, annually, there shall be chosen by concurrent vote of the City Council, to be first acted upon by the Mayor and Aldermen, an able and discreet person to be styled the Superintendent of the Boston Free Bridge, who shall continue in office, until removed, or a successor be appointed; who shall receive such compensation for his services as the City Council may authorize and establish; and who shall be removable at all times, at the pleasure of the City Council. And in case said office shall become vacant by death, resignation or otherwise, a successor shall be forthwith chosen in the manner above prescribed.

[2] SEC. 2. *Be it further ordained,* That it shall be the duty of the Superintendent of the Boston Free Bridge, to take charge of the said bridge, by night and by day, and to cause the draw thereof to be opened at all times, when required for the free passage of vessels, and to cause the same to be closed, forthwith, and with all possible expedition, not permitting more than one vessel to pass at any one opening of the draw, unless the bridge shall be free of passengers while the draw is up, in which case, he shall use his discretion as to the number of vessels to be permitted to pass, prior to the closing of the said draw. And it shall be the duty of the said Superintendent to take care of the bridge, abutments, and wharves, connected there-

with, to see that at all times they are in a safe and satisfactory condition and free of all incumbrances ; that the lamps thereon are well lighted, that the railing and planks are in good order, subject at all times to the authority, control and direction of the Mayor and Aldermen for the time being, relative to the duties herein before expressed, and also relative to any other duties respecting said bridge and wharves and the abutments connected therewith, which the said Mayor and Aldermen may from time to time order or prescribe.

[3] SEC. 3. *Be it further ordained*, That any person or persons who shall deface, break, or injure said bridge or wharves, or shall unnecessarily open or obstruct the passage of said draw, without the knowledge or assent of the Superintendent of said bridge, shall upon conviction thereof, pay a fine not less than three dollars, and not exceeding twenty dollars.

CHAPTER XLIII.

Superintendent of Faneuil Hall.

ORDINANCE OF THE CITY.

[1] *Superintendent to be appointed by Mayor and Aldermen—his general duties.*

[2] *To visit the apartments once a month.*

[3] *To attend at the opening and closing of the Hall.*

[4] *His continuance in office.*

[5] *His salary.*

An Ordinance providing for the appointment of a Superintendent of Faneuil Hall. [*Passed Oct. 14, 1833.*]

[1] SEC. 1. *Be it ordained by the Mayor, Aldermen and Common Council of the City of Boston, in City Council assembled,* That there shall be appointed annually by the Mayor and Aldermen a Superintendent of Faneuil Hall, whose duty it shall be to supervise and take proper care of said Hall and all the rooms over the same and connected therewith—to attend to the admission of visitors,—to provide that the said rooms are kept clean and in good order and to report to the Mayor and Aldermen all repairs that may be necessary in the same.

[2] SEC. 2. *Be it further ordained,* That it shall be the duty of said Superintendent to examine at least once in each month and as much oftener as he may deem expedient, the various apartments, comprising the armories, offices and stores connected with said Faneuil Hall, for the purpose of ascertaining any danger that may exist from fire or other causes, and whenever he shall discover any such cause of danger to report the same to the Mayor and Aldermen.

[3] SEC. 3. *Be it further ordained,* That it shall be the duty of said Superintendent to attend to the opening and closing of said Hall, at such hours and under such provisions as the Mayor and Aldermen may direct.

[4] SEC. 4. *Be it further ordained,* That said Superintendent shall hold his said office during the pleasure of the Mayor and Aldermen, and in case of a vacancy occurring in said office, the same shall be filled in the manner provided in the first section.

[5] SEC. 5. *Be it further ordained,* That said Superintendent shall receive such compensation for his services as the City Council may from time to time allow.

CHAPTER XLIV.

Assessment and Collection of Taxes.

ACTS OF THE LEGISLATURE.

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| <p>[1] <i>Agents, Trustees, &c. made liable for taxes.</i></p> <p>[2] <i>Collectors, &c. authorized to sue in certain cases.</i></p> <p>[3] <i>Constables to be appointed by Selectmen.</i></p> <p>[4] <i>Assessors and Assistant assessors, their appointment and power.</i></p> <p>[5] <i>Treasurer to be Collector, to appoint deputies, their power.</i></p> <p>[6] <i>Discount on taxes, (repealed, see post 13.)</i></p> <p>[7] <i>Outstanding taxes to be collected by the Treasurer.</i></p> <p>[8] <i>Warrant, for collecting</i></p> | <p><i>to be issued to Deputy Collectors by Treasurer.</i></p> <p>[9] <i>Warrants of distress to be issued by Treasurer to Sheriffs, &c.</i></p> <p>[10] <i>Sheriffs, &c, to execute warrants, and to leave summonses.</i></p> <p>[11] <i>Constables to give additional bonds.</i></p> <p>[12] <i>Assistant assessors to be sworn. Their duty at elections.</i></p> <p>[13] <i>Repealing the allowance of discount on taxes, (see 6.)</i></p> |
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ORDINANCE OF THE CITY.

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| <p>[14] <i>Assessors and assistant assessors.</i></p> <p>[15] <i>Assessors to be organized into one board.</i></p> <p>[16] <i>Personal estate, how to be doomed, &c.</i></p> <p>[17] <i>Assistant Assessors, their duty.</i></p> <p>[18] <i>Real estate, to whom to be taxed.</i></p> | <p>[19] <i>Transfer of taxes when and by whom to be made.</i></p> <p>[20] <i>Record and return of abatement of taxes.</i></p> <p>[21] <i>Collection of Taxes in general, mode of.</i></p> <p>[22] <i>Collection of particular poll taxes, mode of.</i></p> <p>[23] <i>Repealing clause.</i></p> |
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An Act to enable the Collectors of taxes in the town of Boston to sue for and recover the rates and taxes given them to collect, in certain cases.

[*Passed Feb. 4, 1764. Made perpetual by act March 7, 1797.*]

Whereas notwithstanding the provision already made by the laws of this province, respecting Constables and Collectors of

taxes, it is represented that in many cases there may be a failure, and the town of Boston have humbly desired that remedy may be provided for their collectors in those cases :

[1] SEC. 1. *Be it therefore enacted by the Governor, Council and House of Representatives,* That where any person duly rated in the said town, hath absconded, or shall abscond, not having paid such rates, and hath concealed, or shall conceal his goods and estate, in such cases the Collectors and Constables of said town shall have like remedy against the Agents, Factors or Trustees of such absconding person, for the recovery of the rates and taxes given them to collect, of such absconding person, as by the laws of this Province other creditors have for recovery of their debts.

[2] SEC. 2. *And be it further enacted,* That where any person duly rated in said town, hath died or shall die before payment of the said rates ; and where any constable or collector of the said town hath died, or shall die before he hath collected the rate and taxes given him to collect ; and where any person duly rated in the said town hath removed, or shall remove, out of it into some other town in this Province ; and where any feme sole, being duly rated in the said town, hath intermarried, or shall intermarry, before payment of such rates ; and where the time for payment to the respective Treasurers being elapsed, the Collectors or Constables in the said town shall have paid the whole sum given them to collect in each year ; in all such cases it shall and may be lawful for the Collectors or Constables of the said town, their executors and administrators, and they are hereby empowered to sue for such rates and taxes : and they shall have all the like remedies for recovery thereof as other creditors have for recovering their proper debts :—This act to continue and be in force for two years from the first day of February, one thousand seven hundred and sixty-four, and no longer.

An act regulating the collection of taxes in the town of Boston, and providing for the appointment of Constables in the said town. [*Passed June 18, 1802.*]

[3] SEC. 1. *Be it enacted by the Senate and House of Representatives in General Court assembled and by the authority of the same,* That the Selectmen of the town of Boston, be, and they are hereby empowered to appoint annually, such

a number of persons as Constables in the said town, as the public service may require ; and the said Constables, so appointed, shall give bonds to the Treasurer of the town of Boston, in such sums, and on such conditions, as the said Selectmen shall think proper, for the faithful performance of the duties of their office ; and the Constables so appointed by the Selectmen, shall have the same powers as are by law vested in Constables chosen by the towns in this Commonwealth.

[4] SEC. 2. *Be it further enacted*, That the inhabitants of the town of Boston, shall assemble annually on the first Wednesday in April, in their respective wards, and shall then choose and appoint two persons in each of their respective wards, to assist the assessors in taking a list of the polls, in estimating the value of their personal property, and in appraising the value of all real estates in their own wards ; and the twenty-four persons thus chosen, shall meet and appoint three persons whom they shall judge best qualified to serve the town in the office of assessors, the ensuing year ; which assessors shall have the same powers as are vested by law in assessors chosen by other towns in this Commonwealth ; and in case of the death or resignation of any person so chosen in either of the wards, the clerk of such ward is empowered and directed to call a new meeting of the ward to choose a suitable person to supply the place of the person so dead or declining to serve. [*See City Charter*, [15.]]

[5] SEC. 3. *Be it further enacted*, That the Treasurer of the town of Boston, shall be the Collector of taxes in the said town, and shall be and hereby is empowered, to substitute and appoint under him, such and so many deputies or assistants, as the service may be found to require, who shall give bonds for the faithful discharge of their duty, in such sums and with such sureties as the Selectmen of said town shall think proper ; and the said Collector, and his deputy or deputies, shall have the same powers as are invested by law in collectors of taxes chosen by other towns in this Commonwealth.

[6] SEC. 4. [*Be it further enacted*, That all such inhabitants of the said town of Boston, who shall voluntarily pay to the said town Collector or his deputy, within thirty days next after the delivery of their tax bills the amount of their respective taxes, shall be entitled to an abatement of five per centum on the amount of their said taxes ; and such inhabitants of said town who shall voluntarily pay their said taxes to the said Collector, or his deputy, within sixty days after the delivery of their tax bills, shall be entitled to an abatement of three per centum on the amount of their said taxes ; and all such of said Inhabitants who shall so pay to the said Collector or his depu-

ty, within one hundred and twenty days, next after the delivery of their tax bills, shall be entitled to an abatement of two per centum on the amount of their said taxes. [Repealed by Act June 22, 1811.]

An Act in addition to an Act entitled "An Act regulating the collection of taxes in the town of Boston, and providing for the appointment of Constables in the said town.

[*Passed June 18, 1803.*]

[7] SEC. 1. *Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same,* That the Treasurer of said town of Boston, his deputy or deputies, shall be empowered to collect all such taxes as may be outstanding and uncollected, at the time of his being chosen to the office of Treasurer; such Treasurer and his deputies first giving bonds for the faithful discharge of their duty, in such sums and with such sureties as the Selectmen of said town shall think proper.

[8] SEC. 2. *And be it further enacted,* That the said Treasurer may issue his warrant to his deputy or deputies, for the collecting and gathering in such part of the rates or assessments as, in his discretion he shall think proper to commit to such deputy or deputies; which warrant shall be in the same tenor with the warrant prescribed to be issued by the Selectmen or Assessors, for the collecting and gathering in of the state rates or assessments, *mutatis mutandis.*

An act in addition to act entitled "An act regulating the collection of taxes in the town of Boston, and providing for the appointment of Constables in the said town."

[*Passed March 12, 1808.*]

[9] SEC. 1. *Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same,* That the Treasurer and Collector of the town of Boston, be, and he hereby is authorized to issue his warrant to the Sheriff of the County of Suffolk, his deputy, or

to any constable of the town of Boston, directing them to distrain the persons or property of any person or persons, who may be delinquent in the payment of taxes, after the time has expired, that is or may be fixed for payment, by any vote of said town. Which warrants shall be of the same tenor with the warrant prescribed to be issued by Selectmen or Assessors for the collecting or gathering in of the state rates or assessments, *mutatis mutandis*. And the said officers shall make a return of their warrants with their doings thereon, to the said Treasurer and Collector within thirty days from the date thereof: *Provided, however*, That nothing in this act shall prevent the said Treasurer and Collector, whenever there may be a probability of losing a tax, from distraining the person or property of any individual, before the expiration of the time fixed by the votes of said town.

[10] SEC. 2. *Be it further enacted*, That it shall be the duty of said officers, to execute all warrants they may receive from said Treasurer and Collector, pursue the same process in distraining the persons or property of delinquents, as collectors of taxes are now authorized by law to do and perform; and for collecting the sum of money due on said warrant, receive the fees that are allowed by law for levying executions in personal actions: *Provided, however*, before the said officers shall serve any warrant, they shall deliver to the delinquent, or leave at his or her usual place of abode, a summons from said Treasurer and Collector, stating the amount due; and that unless the same is paid within ten days from the time of leaving said summons into the town Treasury, with twenty cents for said summons, his or her property will be distrained according to law.

[11] SEC. 3. *Be it further enacted*, That the Constables of the town of Boston, in addition to the usual condition of their bonds, shall also be bound to the faithful execution of all warrants committed to them by the Treasurer and Collector of said town.

An act in addition to the several Laws regulating elections.

[*Passed March 6, 1810.*]

[12] *Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same*, That the Assistant Assessors in any town wherein such officers are, or may by law be chosen, shall, before en-

tering the duties of their respective offices, be sworn to the faithful discharge thereof, and shall have the same powers, and they are hereby required to perform the same duties in their several wards, in collecting and making lists of all such inhabitants as are qualified to vote in any election, and also of all ratable polls, as assessors are by law required to do and perform.

An act to repeal part of an act entitled "An act regulating the collection of taxes in the town of Boston, and providing for the appointment of Constables in the said town."

[*Passed June 22, 1811.*]

[13] *Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That the fourth section of the act, passed the eighteenth of June, one thousand eight hundred and two, entitled "An act regulating the collection of taxes in the town of Boston, and providing for the appointment of Constables in the said town," which allows a discount on the payment of taxes within certain periods, be and the same is hereby repealed.

An Ordinance concerning the Assessment and Collection of Taxes. [*Passed Oct. 21, 1833.*]

[14] SEC. 1. *Be it ordained by the Mayor, Aldermen and Common Council of the City of Boston, in City Council assembled,* That in the month of March or April annually, there shall be chosen, by concurrent vote of the City Council, by ballot, not less than three assessors of the public taxes, and also not less than two persons residing in each ward to act as assistant assessors. And in case of any vacancy in either of said offices, by death, resignation, or otherwise, a successor shall be forthwith chosen in the manner above prescribed. And each of said officers shall be removable at the pleasure of the City Council.

[15] SEC. 2. *Be it further ordained,* That the assessors and assistant assessors shall meet as soon as practicable after their election and organize themselves into one board by the choice of a Chairman and Secretary, and a majority of the

members present at any meeting shall constitute a quorum for the transaction of business.

[16] SEC. 3. *Be it further ordained*, That all personal estate, of which no schedule has been given to the assessors, shall be doomed at a legal meeting of the said board of assessors and assistant assessors.

[17] SEC. 4. *Be it further ordained*, That it shall be the duty of the said assistant assessors to visit in company with one or more of the assessors the different estates in their respective wards, and to assist the assessors in taking a list of the polls, in estimating the value of their personal property, and in appraising the value of all real estates in their own wards.

[18] SEC. 5. *Be it further ordained*, That the said Assessors be, and they hereby are required to assess upon the owners of real estate within the City of Boston, the amount of taxes for which such estate may be respectively taxed: *Provided*, that in cases where the assessors may think it to be more for the public interest to assess the tenant or occupant, instead of the owner, they may so assess: *Provided, also*, that nothing in this ordinance contained, shall affect the right, which owners and tenants may have between themselves respectively, by reason of any contract or agreement between them.

[19] SEC. 6. *Be it further ordained*, That the said assessors may transfer the amount of taxes assessed on real estates not owned at the time of assessment by the person or persons charged with such taxes, to the person or persons by whom the same were owned at the time of such assessment.

[20] SEC. 7. *Be it further ordained*, That all abatements of taxes which shall at any time be allowed, shall be recorded by the assessors, and the record thereof shall contain the names of all persons whose taxes shall be abated, in whole or in part, and the amount originally assessed, and the amount of abatements, and that all the reasons for abatement shall be stated on the said record, against the name of each person whose tax shall be abated; and that this record shall be laid before the city government, as soon as may be, and in every year, before the election of assessors for the ensuing year.

[21] SEC. 8. *Be it further ordained*, That it shall be the duty of the assessors to issue the tax bills for taxes assessed on all persons (except those upon whom the poll tax only is assessed,) on or before the first day of September in each year, and it shall be the duty of the City Treasurer, within sixty days thereafter to issue his summons to each person who shall be assessed for the same and whose taxes shall not have been wholly abated, and if such person shall not pay his taxes within ten days after the receipt of such summons of the service thereof upon him in the usual form, the said Treasurer

shall issue his warrant for the collection of the same in the manner provided for by the laws of the Commonwealth.

[22] SEC. 9. *Be it further ordained*, That it shall be the duty of the assessors to issue forthwith the tax bills for poll taxes assessed upon each and every person, upon whom a poll tax only is assessed, as soon as the amount thereof due from such person is ascertained and the taxes shall be paid when demanded, and in all cases of neglect or refusal to pay the same it shall be the duty of the City Treasurer to proceed as is provided by the Laws of the Commonwealth, for the collection of taxes from delinquents.

[23] SEC. 10. *Be it further ordained*, That "An ordinance on the subject of taxes," "An ordinance for fixing the number and providing for the choice of Assessors," and all By-laws of the town and ordinances of the City of Boston, on the subject of Taxes be, and the same hereby are, repealed, excepting so far as may be necessary for the assessment and collection of any tax already ordered, and *Provided*, that all officers appointed by virtue of said ordinances shall continue to hold their respective offices until others are chosen in their places.

CHAPTER XLV.

Theatrical Exhibitions.

ORDINANCE OF THE CITY.

[1] *Penalty for establishing, &c. or advertising, &c. Theatrical exhibitions, &c.*

An ordinance to regulate Theatrical Exhibitions.

[*Passed Dec. 18, 1826.*]

[1] *Be it ordained by the Mayor, Aldermen, and Common Council of the City of Boston, in City Council assembled,* That if any person shall violate any of the provisions contained in the fourteenth section of the act, entitled "An act establishing the City of Boston," such person shall forfeit and pay for each and every offence against any of the provisions in said fourteenth section contained, a sum not less than five dollars nor more than twenty dollars.

CHAPTER XLVI.

Warrants.

ORDINANCE OF THE CITY.

[1] *Warrants for Ward Meetings—form of.*

[2] *To be served and returned by constables.*

[3] *Warrants for general meetings—form of.*

[4] *To be served and returned by constables.*

[5] *Poll, time of opening and closing how to be fixed.*

An ordinance prescribing the form of Warrants, and of the service thereof. [*Passed Dec. 27, 1826.*]

[1] SEC. 1. *Be it ordained by the Mayor, Aldermen and Common Council of the City of Boston, in City Council assembled,* That the form of Warrants for calling meetings of the citizens of the several Wards, shall be as follows, to wit :

L.S. City of Boston,

To either of the Constables of the City of Boston.

Greeting :

In the name of the Commonwealth of Massachusetts, you are hereby required, forthwith, to warn the Inhabitants of Ward No. , qualified as the law directs, to assemble at
on the day of at o'clock M.
then and there to give in their ballots for

Hereof fail not ; and have you there then this Warrant, with your doings thereon. Witness Mayor of our said City of Boston the day of in the year of our Lord one thousand eight hundred and

By order of the Mayor and Aldermen.

City Clerk.

[2] SEC. 2. *Be it further ordained,* That all Warrants for calling meetings of the citizens of the several Wards, which shall be issued by the Mayor and Aldermen, shall be served by any constable of the city, and returned to the Wardens of the several Wards in said city, on or before the time of meeting of the citizens of said Wards, therein specified.

[3] SEC. 3. *Be it further ordained*, That the form of Warrants for calling meetings of the Inhabitants of the said City of Boston, shall be as follows, to wit :

L. S. City of Boston ss.

To the Constables of the City of Boston.

Greeting :

In the name of the Commonwealth of Massachusetts, you are required forthwith to warn the Inhabitants of the City of Boston, qualified as the law directs, to assemble at Faneuil Hall, on the day of at o'clock M. then and there to

Hereof fail not ; and have you there then this Warrant, with your doings thereon. Witness, Mayor of our City of Boston, the day of in the year of our Lord one thousand eight hundred and

By order of the Mayor and Aldermen.

City Clerk.

[4] SEC. 4. *Be it further ordained*, That all Warrants which shall be issued by the Mayor and Aldermen, for calling meetings of the Inhabitants of the city, shall be served by any constable of the city, and returned to the Mayor and Aldermen on or before the meeting of the citizens therein specified.

[5] SEC. 5. *Be it further ordained*, That it shall be the duty of the Mayor and Aldermen to fix the time when the poll shall close, as well as the time for the opening thereof, in the election of all officers, except ward officers, and insert the same in any warrant and notification to the Inhabitants, of such election.

CHAPTER XLVII.

Watch.

ACTS OF THE LEGISLATURE.

[1] *Selectmen (Mayor and Aldermen) to appoint Watchmen and head constable, &c. of the Watch, in Boston.*

[2] *Power of Watchmen.*

[3] *Expense of Watch, how to be levied.*

[4] *Mayor and Aldermen may set Watch at such hour after sunset as they may deem expedient.*

An act to establish a Watch, for preserving the safety and good order of the town of Boston.

[*Passed Jan. 29, 1802.*]

[1] SEC. 1. *Be it enacted by the Senate and House of Representatives in General Court assembled and by the authority of the same,* That the Selectmen of the town of Boston, be, and they hereby are authorized from time to time, to appoint such a number of their Inhabitants, to be Watchmen by night, in the town of Boston, as they shall judge expedient; to be paid at the charge of that town; and the said Selectmen are also further authorized, and empowered, from time to time, to appoint a head constable to superintend said Watch, as also a constable for each division thereof; and the several constables of divisions are required to report every morning an account of their doings, and of the state of the town during the night, to the said head constable, in order that the same may be communicated to the chairman of the Selectmen daily.

[2] SEC. 2. *And be it further enacted, by the authority aforesaid,* That the head constable, the several constables of divisions, and the Watchmen appointed by virtue of this act, shall have the same powers, and shall be held and obliged to perform the same duties, as are required of Watchmen, by a law of this Commonwealth, passed March the 10th, 1797, entitled "An act for keeping Watches and Wards in towns, and for preventing disorders in streets and public places."

[3] SEC. 3. *And be it further enacted, by the authority aforesaid,* That the expenses that may be incurred, by reason of the establishment of the Watch aforesaid, shall be raised, levied and collected, as other expenses of said town are or may be raised, levied or collected; any law to the contrary notwithstanding.

An act in addition to “An act to establish a Watch for preserving the safety and good order of the town of Boston.

[*Passed March 2, 1833.*]

[4] *Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same,* That whenever the Mayor and Aldermen of the City of Boston shall establish a Watch within said city, in pursuance of the act to which this is in addition, and also of an act passed on the tenth day of March, in the year of our Lord one thousand seven hundred and ninety-seven, entitled “An act for keeping watches and wards in towns, and for preventing disorders in streets and public places,” or in pursuance of either of said acts, the said Mayor and Aldermen may, and they are hereby authorized to set such watch, at such hour after sunset, as they shall judge expedient; and from and after such hour, the said watch shall and may exercise all the powers given in and by the several acts aforesaid, any thing in the said acts to the contrary notwithstanding.

CHAPTER XLVIII.

Weights and Measures.

ACT OF THE LEGISLATURE.

[1] *Sealer of Weights, &c. to be provided with an office, to which scale beams, &c. are to be sent annually.*

[2] *Sealer authorized to go to houses, &c. to examine weights, &c.—fees—forfeitures—penalties.*

[3] *Fines accruing under this act or under by-laws, &c.*

to be recovered by complaint—appropriations of fines—appeal.

[4] *Imprisonment for offences against this act or by-laws not to exceed ten days.*

[5] *Appropriation of fines for offences against the act concerning licensed houses.*

[6] *Repealing clause.*

ORDINANCE OF THE CITY.

[7] *Number of sealers, &c. fixed.*

An act in further addition to an act, entitled, “An act for the due regulation of Weights and Measures;” and for the more easy recovery of fines and penalties within the town of Boston, in the County of Suffolk. [*Passed June 17, 1817.*]

[1] SEC. 1. *Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same,* That it shall be the duty of the sealer of weights and measures, within and for the town of Boston, to be provided with a house, or office, and to which all persons using scale beams, steelyards, weights or measures within the town of Boston, in trade, for the purpose of buying or selling any article, shall be required, after notice thereof shall have been given in two or more of the newspapers published within the said town, to send annually their scale beams, steelyards, weights and measures, for the purpose of having the same tried, proved and sealed, as is provided in and by the act aforesaid to which this is in addition; and the said sealer shall be entitled to demand and receive therefor, such fees as are allowed, in and by the said act.

[2] SEC. 2. *Be it further enacted,* That the said sealer is hereby authorized and required, to go to the houses, stores and shops of all such merchants, innholders, traders, retailers,

and all other persons living or residing within said town of Boston, using beams, steelyards, weights or measures, for the purpose of buying and selling, as shall neglect to bring or send the same to the house or office of the scaler aforesaid : and there, at the said houses, stores and shops, on having entered the same with the assent of the occupant thereof, to try, prove and seal the same, or to send the same to his said house or office, to be tried, proved and sealed, and shall be entitled to demand and receive therefor, double the fees he would be entitled to demand and receive for the same, if such beams, steelyards, weights and measures, had been sent to his said house or office ; with all the expenses attending the removal and transportation of the same ; and if any such person or persons shall refuse to have his, her or their beams, steelyards, weights or measures, so tried, proved and sealed, the same not having been tried, proved and sealed, within one year preceding such refusal, he, she or they shall forfeit and pay ten dollars for each offence ; the one moiety to the use of the said town of Boston, the other moiety of the same to the scaler. And if any such person or persons shall use any beam, steelyard, weight or measure, which shall not conform to the public standard, the same not having been tried, proved and sealed, within one year preceding such use of the same, he, she or they shall forfeit and pay ten dollars for each offence ; the one moiety to the use of said town of Boston, and the other moiety of the same to the informer. And if any such person or persons shall alter any beam, steelyard, weight or measure, after the same shall have been tried, proved and sealed, so as that the same shall, by such alteration be made not to conform to the public standard, and shall fraudulently make use of the same, he, she or they shall forfeit and pay fifty dollars for each offence, the one moiety to the use of the said town of Boston, and the other moiety of the same to the informer.

[3] SEC. 3. *Be it further enacted*, That all fines, forfeitures and penalties accruing within the said town of Boston under this act, or for the breach of any by-law of the said town, which is now in force, or which hereafter may be duly enacted and made, may be recovered by indictment, information or complaint, in the name of the Commonwealth, in any court competent to try the same ; and all fines so recovered and paid, shall be appropriated to the uses, for which the same are now by law ordered to be applied ; reserving however, in all cases to the party complained of and prosecuted, the right of appeal to the next Municipal Court in the town of Boston, from the judgment and sentence of any Justice of the Peace, in which case the judgment of said Municipal Court shall be final ;

and to the next Supreme Judicial Court, to be holden within the County of Suffolk and for the Counties of Suffolk and Nantucket, from the judgment of the Municipal Court, where the indictment or information originated in the same; such party recognizing, with sufficient surety or sureties, to the satisfaction of the court, to enter and prosecute his, her or their appeal, and to abide the final judgment thereon.

[4] SEC. 4. *Be it further enacted*, That when any person, who, upon a conviction before a Justice of the Peace for any offence mentioned in this act, or for the breach of any by-law of the town of Boston, shall be sentenced to pay a fine, and shall not appeal from said judgment; or if upon claiming an appeal, shall fail to recognize as aforesaid, and upon not paying the fines and costs so assessed upon him, shall be committed to prison; there to remain until he or she shall pay such fines and costs, or otherwise be discharged according to law; such person shall not be holden in prison for a longer time than ten days; and at the expiration of that term, the keeper of the said gaol is hereby authorized to release such person from confinement.

[5] SEC. 5. [*Be it further enacted*, That all fines and penalties which shall be hereafter recovered for any offences which shall hereafter be committed against the act of this Commonwealth, which was made and passed on the fourteenth day of December, in the year of our Lord one thousand eight hundred and sixteen, entitled "*An act in addition to an act, entitled an act for the due regulation of Licensed Houses*," shall be appropriated, the one moiety to the town of Boston, and the other moiety of the same to the informer, any thing to the contrary in that act notwithstanding.] [*Repealed.*]

[6] SEC. 6. *Be it further enacted*, That the seventh section of the act aforesaid, to which this is in addition, be and the same is hereby repealed, so far as respects the said town of Boston.

ORDINANCE OF THE CITY.

An ordinance providing for the appointment of two Sealers of Weights and Measures. [*Passed July 22, 1822.*]

[7] *Be it ordained by the Mayor, Aldermen and Common Council of the City of Boston in City Council assembled*, That two Sealers of Weights and Measures, shall be appointed within the City of Boston.

CHAPTER XLIX.

Wells and Pumps.

ORDINANCE OF THE CITY.

[1] *Public Wells to be provided with Pumps—expense to be assessed on persons using the same.*

[2] *Owner of estate assessed to pay within ten days.*

[3] *Owner of estates assessed to be released in certain cases—Proviso.*

[4] *Penalty for injuring, &c. public pumps.*

[5] *Repealing clause.*

An Ordinance for the repair and keeping in order the Public Wells and Pumps. [*Passed Dec. 30, 1833.*]

[1] SEC. 1. *Be it ordained by the Mayor, Aldermen and Common Council of the City of Boston, in City Council assembled,* That it shall be the duty of the Mayor and Aldermen, to keep supplied with suitable pumps, all wells belonging to the city, and to keep the same in good order and repair; and to cause the expense of providing such pumps, as well as keeping them in repair, and also a reasonable charge for the use of the same, to be annually assessed upon the owners of real estate in the vicinity of such well, and whose tenants make use of the same; and where such owners are absent or out of this Commonwealth, or unknown, then they shall assess his or their proportion of the same, upon the tenants of such real estate, said assessment to be charged on said estate.

[2] SEC. 2. *Be it further ordained,* That the owner or tenant of such real estate, as the case may be, being assessed as aforesaid, shall pay the amount thereof into the City Treasury within ten days from the time of the delivery of such notice; and in case of neglect thereof for the space of ten days, it shall be the duty of the City Treasurer to prosecute for the same.

[3] SEC. 3. *Be it further ordained,* That if the said owner or tenant being assessed, as aforesaid, shall make it appear to the satisfaction of the Mayor and Aldermen, that he has, upon his own estate, a good and sufficient well of water, and that neither he, nor any tenant or occupant of his estate, has made any use of, or has any necessity to resort to such public pump or well,

that in such case it shall be in the power of the Mayor and Aldermen to release such owner or tenant from the payment of such assessment : *Provided, always*, that in such case if it shall be made satisfactorily afterwards to appear, that any tenant or occupant of such estate, hath made use of said public well or pump, that such owner or tenant shall be liable to pay double the amount of that, and of all other assessments, which may have been made upon such estate, if from the circumstances of the case, the Mayor and Aldermen shall see fit to demand the same.

[4] SEC. 5. *Be it further ordained*, That whoever shall break or otherwise injure any of the Public Pumps, or commit any trespass on the same, shall forfeit and pay a sum not less than one dollar nor more than twenty dollars, to be recovered by complaint before the Justices of the Police Court.

[5] SEC. 5. *Be it further ordained*, That all ordinances and orders passed on the subject of this ordinance, and "an ordinance for the repair and keeping in order Wells and Pumps," be and the same hereby are repealed.

CHAPTER L.

Wood and Bark.

ACT OF THE LEGISLATURE.

[1] *City Council to establish regulations for survey, &c. of Wood and Bark brought into the City by water.*

[2] *City Council to appoint Surveyors, &c. of wood, &c. and fix their compensation.*

[3] *Legislative control of the act.*

ORDINANCE OF THE CITY.

[4] *Stands appointed for measuring country wood.*

[5] *Stands for sale of country wood, (see 9.)*

[6] *Measurers to be appointed—their duty, see 9.)*

[7] *Fees for measuring to be established.*

[8] *Penalty for standing for sale of wood contrary to the ordinance.*

[9] *Stands for measuring may be altered, and measurers appointed.*

An Act to provide for the Survey and Admeasurement of Wood, Coal, and Bark for fuel, brought by water into the City of Boston for sale. [*Passed Jan. 25, 1831.*]

[1] SEC. 1. *Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same,* That from and after the passage of this act, it shall be lawful for the City Government of the City of Boston, to make and establish ordinances, rules, and regulations, for the inspection, survey, admeasurement, and sale of wood, coal, and bark for fuel brought by water into the City for sale, as they may from time to time determine to be expedient and suitable to the circumstances of the said City, and to ordain fit penalties for the breach of such ordinances, rules and regulations, to be recovered in the same manner and before the same courts, as other fines and forfeitures are recoverable by law.

[2] SEC. 2. *Be it further enacted,* That the said City Government, in their discretion, may also provide for the appoint-

ment of all such surveyors, inspectors and other officers, as they may find expedient and proper, for the execution of such ordinances, rules and regulations, and fix their fees and compensation for their official duties and services.

[3] *Be it further enacted*, That this act may be altered, amended or repealed at the pleasure of the Legislature.

An ordinance regulating the admeasurement of Wood and Bark. [*Passed Dec. 27, 1826.*]

[4] SEC. 1. *Be it ordained by the Mayor, Aldermen and Common Council of the City of Boston, in City Council assembled*, That hereafter there shall be three places for the measuring of Wood and Bark, brought into this city in carts, wagons, or sleds, from the country for sale, to wit : one at the southerly part of Washington street ; one at the westerly part of Cambridge street, near Cambridge bridge ; and one in Leverett street, near Canal bridge.

[5] SEC. 2. *Be it further ordained*, That there shall be two stands for the sale of wood and bark brought into the city as aforesaid, to wit : the one in the southerly, and the other in the northerly part of the city, to be established by the Mayor and Aldermen.

[6] SEC. 3. *Be it further ordained*, That there shall be three persons appointed annually, by the Mayor and Aldermen, as measurers of wood and bark, brought into the city as aforesaid, who shall be under oath, faithfully to perform the duties of their office, shall have all the powers, and perform all the duties of measurers of wood and bark, according to this ordinance, and the statutes of this Commonwealth relating to the measurement of wood and bark, and shall be furnished by the Mayor and Aldermen, with copies of the said statutes, and of this ordinance. And each person so appointed, shall deliver to the owner or driver of each load of wood or bark, a ticket, signed by the measurer, certifying the quantity of wood or bark the load contains, the name of the driver, and the town in which he resides ; and shall keep an accurate copy of said ticket, in a book to be furnished at their own expense, and kept for that purpose ; and it shall be the duty of the said measurers to make a return to the Mayor and Aldermen, on the first Monday of January annually, of the number of loads of wood and bark they have measured the preceding year.

[7] SEC. 4. *Be it further ordained*, That the Mayor and Aldermen shall establish all fees for measuring wood and bark brought into the city for sale as aforesaid.

[8] SEC. 5. *Be it further ordained*, That any person bringing wood or bark as aforesaid, into this city for sale, who shall, before or after the same has been duly measured, stand for sale thereof, in any other street or place than those appointed by the Mayor and Aldermen, shall forfeit and pay the sum of two dollars for each offence.

[9] SEC. 6. *Be it further ordained*, That it shall be lawful for the Mayor and Aldermen to establish other places than those provided in the first section of this ordinance, for the measurement of wood and bark, and to appoint other measurers than those provided in the third section of this ordinance, whenever they may judge it necessary.

APPENDIX.

The following Laws and ordinances have been passed since the printing of the foregoing pages.

*CHAPTER XXI.

PART II. FIRE DEPARTMENT.

ACT OF THE LEGISLATURE.

[54] *Engines, how to be manned.*

[55] *Engine men to be refunded their poll tax. Duty of Chief Engineer, &c. to certify to Assessors a list of persons in the department, &c.—Duty of Assessors to certify to*

Treasurer and of the Treasurer to pay over.

[56] *Penalty for Chief Engineer refusing to certify.*

[57] *Repealing clause.*

[58] *Second and third sections to be approved annually.*

An Act concerning the appointment of Engine Men.

[*Passed March 1, 1834.*]

[54] SEC. 1. *Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, That the public Fire Engines in the several towns in this Commonwealth, shall be manned by the numbers, and in the manner hereinafter directed. To each common Fire Engine there shall be appointed a number not exceeding thirty men; and to each Hydraulion, or Suction Fire Engine, a number not exceeding forty-five men. And whenever said Suction Engines shall be suffered to go out of repair, and remain so, and be used as common Engines only, the said number of forty-five men shall be reduced to the number of thirty, herein prescribed for common Engines. Provided, however, That this Act shall not affect the right now existing in any city or town, to have a greater number of Engine Men appointed than is herein prescribed.*

And the mode of appointment, duties, liabilities, privileges and exemptions of said additional Engine Men, shall be the same as those of Engine Men under existing laws.

[55] SEC. 2. *Be it further enacted, That all persons duly appointed Engine Men for any public Fire Engine, within the Commonwealth, and all persons duly appointed members*

of the Fire Department established in any city or town, and who shall have done duty as such for the space of one year prior to the first day of May, in each year, shall be entitled to receive from the Treasurers of their respective towns and cities, a sum equal to the poll tax to the State, county, and towns (exclusive of highway taxes) which may have been paid by such persons, or by their parents, masters, or guardians.

And it shall be the duty of the Chief Engineer, or of the officer who holds, by law, the first office in any Fire Department, established as aforesaid—and of the Foreman, or Commanding Officer of any public Fire Engine, in any town where no Fire Department is established by law, on or before the first day of May, in each year, to make out and certify to the Assessors of each city or town, a list of all persons in their Department and Companies respectively, who, through the year preceding, have performed all the duties therein required by law.

And the Assessors shall, within ten days thereafter, examine said lists, and certify to the Treasurers of their respective cities or towns, the amount to be paid to each person named therein; and the said Treasurers shall, on request, pay the same to the persons so named, or if minors, to their parents, masters, or guardians. And upon refusal of any such city or town so to pay, the persons entitled, may severally have an action for money had and received, against such city or town, to recover the same.

[56] SEC. 3. *Be it further enacted*, That if any Chief Engineer, or other officer required to make a certificate to the Assessors, as herein provided, shall wilfully refuse to make such certificate, or shall wilfully or fraudulently make a false certificate, he shall forfeit and pay a sum not less than twenty, nor more than fifty dollars, to be recovered in any court proper to try the same, to the use of the city or town in which the person in whose favor such certificate ought to have been, or shall be made, was assessed.

[57] SEC. 4. *Be it further enacted*, That the Statute of eighteen hundred and twenty-six, chapter one hundred and ten, entitled "An Act to increase the number and provide for the appointment of Engine Men," is hereby repealed.

[58] SEC. 5. *Be it further enacted*, That the second and third sections of this Act shall not take effect in any town or city in this Commonwealth, unless the same shall be adopted and approved annually, at the annual town meeting in each town, for the choice of town officers, or by the Mayor and Aldermen of the city of Boston, or by the City Council thereof, some time in the months of March or April.

CHAPTER LI.

Public Loans and City Debt.

ORDINANCE OF THE CITY.

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| [1] <i>Joint Committee of Finance, appointment and duty of.</i> | to be applied annually to the reduction of. |
| [2] <i>Committee on Reduction of City Debt, appointment and duty of.</i> | [4] <i>Auditors duty in passing receipts to the Account of the Committee.</i> |
| [3] <i>City Debt, what moneys</i> | [5] <i>Committee, authorised to loan to Treasurer of the City.</i> |

An Ordinance concerning the Public Loans and Reduction of the City Debt. [*Passed March 10, 1834.*]

[1] SEC. 1. *Be it ordained by the Mayor, Aldermen and Common Council of the City of Boston, in General Court assembled,* That there shall be annually appointed a Joint Committee of Finance, to consist of the Mayor on the part of the Board of Aldermen and seven members of the Common Council to be chosen by that Board whose duty it shall be, under the direction of the City Council to negotiate all loans made on account of the City whether on behalf of the Committee on the Reduction of the City Debt, herein after mentioned, or for any other purpose, and to consider and report on all subjects relating to the Finances of the City.

[2] SEC. 2. *Be it further ordained,* That the Mayor, the President of the Common Council and the Chairman of the Joint Committee of Finance on the part of the Common Council, shall be a Committee to be called the Committee on the Reduction of the City Debt, whose duty it shall be to cause all moneys passed to their credit in the Books of the Auditor of Accounts, to be applied to the purchase or payment, of the Capital of the Debt of the City, in the manner they may from time to time deem expedient, and it shall be the duty of the Auditor and of the Treasurer of the City, to conform to all orders in writing, in this respect which shall be made and signed by all the members of said Committee.

[3] SEC. 3. *Be it further ordained,* That all balances of money, hereinafter remaining in the treasury at the end of any financial year ; all receipts in money on account of the sale of real estate of any description, now belonging, or which may

hereafter belong to the City ; all receipts on account of the principal sum of any bond or note now owned, or which may hereafter be owned by the City ; and also fifteen thousand dollars of the annual City Tax, in the present and every future year, be and the same hereby is appropriated to the payment or the purchase of the Capital of the City Debt.

[4] SEC. 4. *Be it further ordained*, That it shall be the duty of the Auditor annually, and in every year, to pass to the credit of the Committee on the Reduction of the City Debt, all receipts in money, the proceeds of either of the sources before mentioned, and the said amount out of the annual tax, and the sums so passed to the credit of said Committee shall be drawn from the treasury of the City for the payment of the purchase of the Capital of the City Debt, in the manner before mentioned, and in no other mode and for no other purpose whatever.

[5] SEC. 5. *Be it further ordained*, That the Committee on the Reduction of the City Debt are hereby authorized, to loan on interest to the Treasurer of the City any amount so passed to their credit as aforesaid, which may not be immediately wanted for the purchase or redemption of said debt.

* CHAPTER XXIV.

Interment of the Dead.

ORDINANCE OF THE CITY.

An Ordinance in addition to an Ordinance to regulate the Interment of the Dead. [*Passed April 11, 1834.*]

[1] SEC. 1. *Be it ordained, by the Mayor, Aldermen and Common Council, of the City of Boston, in City Council assembled*, That hereafter, the fee to be paid for any distance that a funeral car may be sent out of the City, shall be one dollar for every mile, not exceeding two miles, and two dollars for any distance more than two miles, and not exceeding five miles.

[2] SEC. 2. *Be it further ordained*, That so much of the eleventh section of the Ordinance to which this is in addition as is inconsistent with the foregoing provision, be and the same is hereby repealed.

*CHAPTER XLI.

Streets.

ACT OF THE LEGISLATURE.

[22] Mayor and Aldermen may extend Front Street over tide waters.		[23] Owners of land, &c. to be compensated.
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An Act to authorize the Mayor and Aldermen of Boston to extend Front Street, in said City.

[*Passed March 11, 1834.*]

[22] SEC. 1. *Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same,* That the Mayor and Aldermen of the City of Boston are hereby authorized to lay out a New Street, in continuation of Front Street, beginning at or near the Southerly end of said Front Street and thence running in a South West-erly direction, over the tide waters to Northampton Street.— And said Street shall be laid out in such direction and through and over such docks and flats, as the public safety or the convenience of the Inhabitants of said City, shall in the opinion of said Mayor and Aldermen require.

[23] SEC. 2. *Be it further enacted,* That the owner or owners of any building, wharf or other erection which may be removed and of any land or flats which may be taken for said Street shall be entitled to receive compensation for the damages occasioned thereby, which damages shall be determined and recovered in the manner now provided in “An Act directing the method of laying out highways.”

*CHAPTER LII.

Public Lands.

ORDINANCE OF THE CITY.

[1] *Superintendent of Public Lands, his appointment, salary.*

[2] *Superintendents duty in laying out streets, &c. and making drains, &c.*

[3] *Superintendents duty in widening streets, and collecting evidence relating thereto.*

[4] *Committee on Public Lands, their appointment.*

[5] *Committees duty in making regulations for the Superintendent.*

[6] *Superintendents duty in allotting, selling, leasing, &c. the Public Lands.*

[7] *Superintendents power to transfer lands in payment of expenses.*

[8] *Contracts, &c. to be signed by Superintendent, or in case of his absence, &c. by the Mayor.*

[9] *Superintendent to give bonds.*

[10] *Returns to be made by Superintendent.*

[11] *Money, Bonds, &c. to be deposited with the Auditor — mortgages to be taken — to be released by Mayor — consent of Mayor to certain mortgages necessary.*

[12] *No expenditure, &c. to be made without an appropriation therefor.*

[13] *Contracts to continue in force after a repeal of this ordinance.*

An Ordinance to provide for the care and management of the Public Lands. [*Passed April 10, 1834.*]

[1] SEC. 1. *Be it ordained by the Mayor, Aldermen and Common Council of the City of Boston in City Council assembled, That there shall be appointed annually in the month of April or May by concurrent vote of the two branches of the City Council a Superintendent of the Public Lands, who shall be removable at the pleasure of the City Council, and shall receive such compensation as said Council may from time to time fix and determine. And in case of any vacancy occurring in said office the same shall be at any time filled in manner before mentioned.*

[2] SECT. 2. *Be it further ordained, That it shall be the duty of said Superintendent, to cause to be laid out all necessary streets and passage ways through said lands or any part*

of them, and to be made canals, drains, sewers and dykes where requisite, subject however to such regulations as may be prescribed by the Mayor and Aldermen.

[3] SECT. 3. *Be it further ordained*, That it shall also be the duty of said Superintendent to perform such services as may be required of him by the Mayor and Aldermen in the laying out or widening of Streets, and in the settlement of any claim for damages to assist the City Solicitor, to collect facts and testimony, and procure plans in relation thereto.

[4] SECT. 4. *Be it further ordained*, That as soon as may be after the passage of this ordinance and thereafter annually in the month of January there shall be appointed a joint Committee of the City Council to be called the Committee on the Public Lands, to consist of two members of the Board of Aldermen and three members of the Common Council, who shall have the care and management of said lands as far as relates to the sale and disposal of the same.

[5] SECT. 5. *Be it further ordained*, That it shall be the duty of said Committee as soon as may be after the said Superintendent shall be chosen, to devise and prescribe suitable rules and instructions for his government, (having in relation to such expenditures as they may authorize, due regard to the appropriations made therefor,) in the execution of his duty, and to change and repeal the same in their discretion, and to fix minimum prices to said lands, regard being had to their location and relative advantages.

[6] SECT. 6. *Be it further ordained*, That it shall be the duty of said Superintendent, to cause to be surveyed and laid out into convenient lots, all or any part of the lands belonging to the City, and to contract for the sale, and actually to sell or lease the same (excepting the Common, and Flats contiguous or appurtenant to the same, and the City Wharf, east of Faneuil Hall Market,) at public or private sale, under such regulations, limitations and restrictions, and at such times as the said Committee shall from time to time make, institute and prescribe.

[7] SECT. 7. *Be it further ordained*, That said Superintendent may, under the direction of said Committee, contract and agree for defraying in part, or in whole, the cost or expense incident to, or arising out of the performance of any acts which he is by this ordinance authorized to do, and perform, by transfer of lands to the contracting parties, in lieu of money, when the same can be done with advantage to the City.

[8] SECT. 8. *Be it further ordained*, That all contracts and agreements made by virtue of this ordinance shall be agreed to, signed and executed by said Superintendent, *Provided*, al-

ways, that in case of his death, sickness or unavoidable absence, the Mayor for the time being, may sign and execute such contracts or agreements; and all deeds, conveyances and leases made in pursuance of any contract or agreement with said Superintendent, shall be executed by the Mayor in the same manner as if the same were made by order of the City Council.

[9] SECT. 9. *Be it further ordained*, That the said Superintendent, before entering on the duties of his office, shall give bonds with one or more sureties, to the approbation of the Mayor and Aldermen, with conditions that he will not directly or indirectly, for himself or others, or by others in trust for him, or on his account, have any interest or concern in any purchase, lease, contract or agreement to be made in pursuance of this ordinance.

[10] SECT. 10. *Be it further ordained*, That said Superintendent shall at least once in three months, and as often as required, make a true and correct report of his proceedings under this ordinance, and exhibit proper schedules and accounts of all lands sold, moneys received, and securities taken, to the Mayor and Aldermen, which shall be by them sent to the Common Council.

[11] SECT. 11. *Be it further ordained*, That all money agreed to be paid by any purchaser or lessee of said lands, all notes, bonds, mortgages or securities for moneys, arising or accruing from or in virtue of any contract made by said Superintendent, shall be paid to, and deposited with the Auditor, and all notes, bonds or securities for moneys due, or growing due upon sales of land or contracts for sale, shall be accompanied by a mortgage of lands of equal value, and the Mayor may from time to time, release to any mortgagor or his assigns, any part of the mortgaged premises, on payment of an equivalent portion of the purchase money. And in all cases where lands other than those sold are proposed to be taken as collateral security, the consent and approbation of the Mayor in writing shall be first obtained.

[12] SECT. 12. *Be it further ordained*, That there shall be no expenditure of money, or contract requiring the expenditure of money be made, under or by virtue of this ordinance, without the sanction of the City Council, by an appropriation being first made to meet such expenditure.

[13] SECT. 13. *Be it further ordained*, That all contracts and agreements made by said Superintendent pursuant to this ordinance, shall be obligatory upon the City, and be carried into effect, the repeal of this ordinance notwithstanding.

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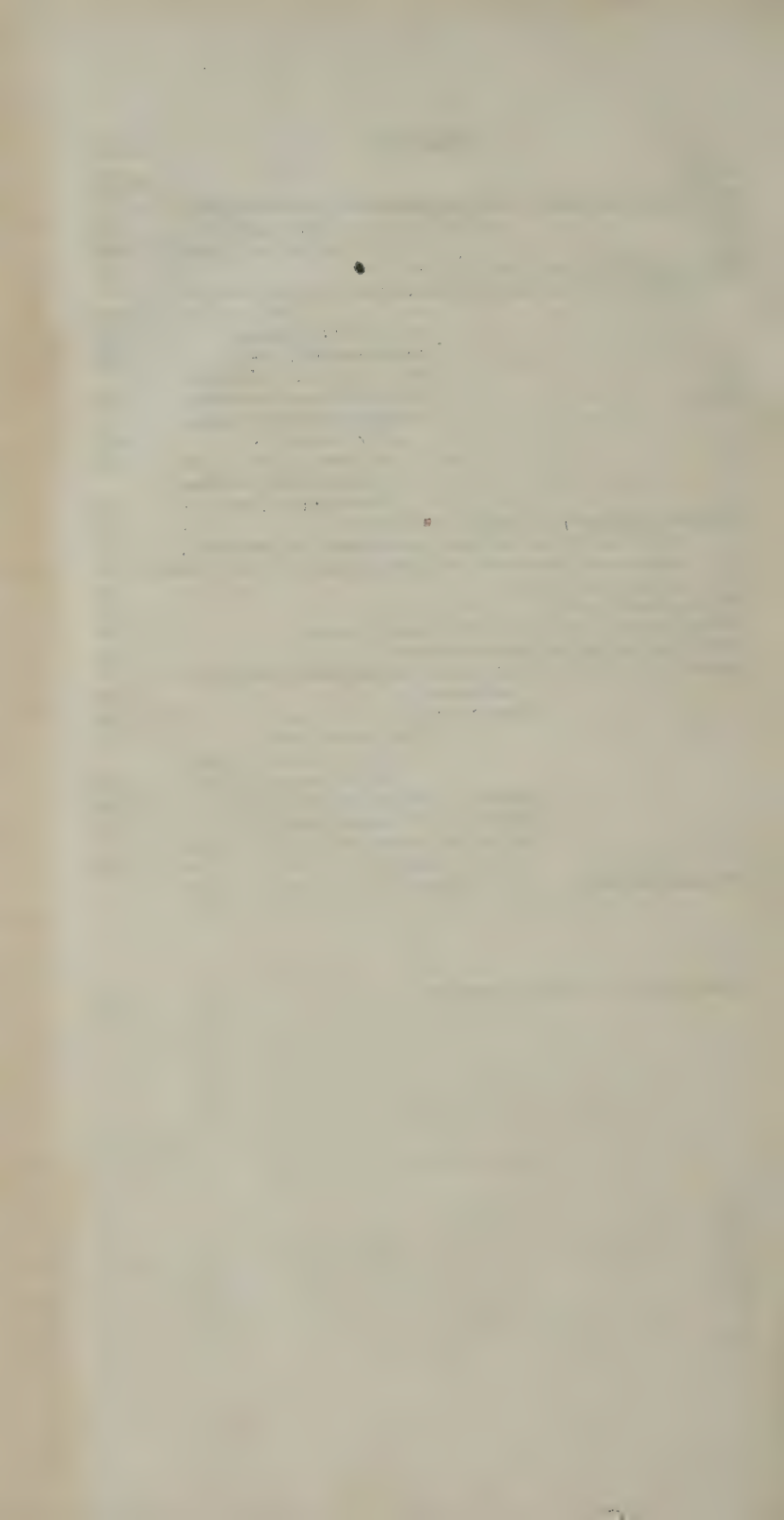
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